

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 21-96A

Date Received: September 3, 2021

Title: Small Business Changes - Guidance

Initiator Name: Tim Eckert

Initiator Organization Name / Routing Code: Procurement Policy Branch, AAP-110

Initiator Phone: 202.267.7527

ASAG Member Name: Monica Rheinhardt

ASAG Member Phone: 202.267.1440

Policy and Guidance: (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Policy | <input type="checkbox"/> Procurement Tools and Resources |
| <input checked="" type="checkbox"/> Guidance | <input type="checkbox"/> Real Property Templates and Samples |
| <input type="checkbox"/> Procurement Samples | <input type="checkbox"/> Procurement Clauses |
| <input type="checkbox"/> Procurement Templates | <input type="checkbox"/> Real Property Clauses |
| <input type="checkbox"/> Procurement Forms | <input type="checkbox"/> Other Tools and Resources |
| <input type="checkbox"/> Procurement Checklists | |

Summary of Change: (1) Establishes set-aside requirements for small disadvantaged businesses (SDBs), (2) clarifies certification requirements for socially and economically disadvantaged businesses that are 8(a) certified (SEDB 8(a)), Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-Owned Businesses (EDWOSBs); and (3) revises guidance on contract bundling to distinguish between contract bundling and contract consolidation.

Reason for Change: (1) Clarifies SDB set-aside requirements to distinguish from SEDB) 8(a) certified set-asides, (2) ensure applicable certification requirements are met in set-asides, and (3) ensure requirements for contract bundling and consolidation are clearly specified.

Development, Review, and Concurrence: AAP-20/AAQ/AGC500/AAP110

Target Audience: Program office and contracting personnel

Briefing Planned: No.

ASAG Responsibilities: ASAG Electronically approved on 9/28/21.

Section / Text Location: T1.15, T2.2.2.4, T3.2.2.5, and T3.6.1

The redline version must be a comparison with the current published FAST version.

- ☒ I confirm I used the latest published version to create this change / redline
or
☐ This is new content

Links: https://fast.faa.gov/PPG_Procurement_Guidance.cfm

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s): See following pages.

[T1.15 - Legal Coordination Guidance](#)

[T3.2.2.4 - Single Source](#)

[T3.2.2.5 – Commercial and/or Simplified Purchase Method](#)

[T3.6.1 - Small Business Program](#)

Section Revised: T1.15 –Legal Coordination Guidance

Procurement Guidance - (10/2021)

T1.15 - Legal Coordination Guidance

A Legal Coordination Guidance

1 Introduction Revised 9/2020

2 Applicability

3 Definitions Revised 9/2020

4 Coordination Guidance Revised ~~9/2021~~10/2021

5 Representation

6 Exceptions and Waivers Revised 9/2020

B Clauses

C Procurement Forms Added 9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T1.15 - Legal Coordination Guidance

A Legal Coordination Guidance

1 Introduction Revised 9/2020

- a. FAA acquisition actions can raise significant legal issues. For example, although pursuant to 49 U.S.C. §40110, FAA is exempt from federal acquisition laws and regulations, other statutes and court decisions require FAA to demonstrate a rational basis, supported by substantial evidence, for acquisition actions. In addition, many laws and regulations enacted for purposes other than procurement apply to FAA acquisitions. Please refer to AMS Policy Appendix E for a list of all applicable laws and regulations.
- b. Therefore, the service organization will coordinate acquisition actions with FAA counsel on an ongoing basis throughout the acquisition lifecycle. It is the responsibility of agency counsel to represent FAA's legal interests within the service organization and, exercising independent professional judgment, advise the service organization concerning legal issues, including, the legality and integrity of acquisition actions, and represent the service organization in litigation and other legal matters.

2 Applicability

This Guidance applies to all FAA acquisition matters, at all stages of the acquisition lifecycle.

3 Definitions Revised 9/2020

- a. As used in this Guidance, the term "agency counsel" means:
- (1) for acquisition matters arising at, or referred to, Headquarters, the Assistant Chief Counsel, Acquisition and Fiscal Law Division,; and
 - (2) for acquisition matters arising at, or referred to, a Region or Center, the responsible Regional or Center Counsel.
- b. As used in this Guidance, the term "Coordinate" means: soliciting the opinion and recommendations of agency legal counsel reasonably prior to taking acquisition actions, i.e., after providing agency counsel accurate and complete information in sufficient time for review and the provision and legal advice.
- c. As used in this Guidance, the term "Service Organization (s)" means: plan and manage resources, as assigned, to deliver services within their area of responsibility. Within the FAA, service organizations include any service unit or team, program office, directorate, or other organizational entity engaged in the delivery and sustainment of air traffic services, safety, security, regulation, certification, operation, commercial space transportation, airport development, or administrative service assets.
- d. As used in this Guidance, the term "Represent" means: recommending an appropriate legal position for the service organization regarding an acquisition matter, and, as appropriate, presenting this position to other parties, such as in administrative or judicial proceedings, or in communications, discussions, or negotiations with another party during a protest, dispute, or claim.

e. As used in this Guidance, the term "Contracting Officer (CO)" includes both warranted 1170 Series Contracting Officer and warranted 1102 Series Contracting Officer.

4 Coordination Guidance Revised 10/2021

a. Coordination between the Service Organization and Agency Counsel

(1) The service organization will coordinate acquisition actions with FAA counsel on an ongoing basis throughout the acquisition lifecycle. Agency counsel will timely respond to the service organization with accurate and effective legal advice that is consistent with legal mandates and relevant to the agency's business discretion. Agency counsel may, at his or her discretion, establish general time frames for such responses, which counsel will make every effort to meet, taking into account the agency counsel's workload and competing priorities. Counsel will describe and interpret legal issues involved in the matter; identify and assess the legal risk of a particular proposed decision; evaluate alternative courses of action; and identify potential illegal or improper actions.

(2) In case of a conflict between FAA's legal interests and those of a service organization, agency counsel's client is the FAA, and not the service organization. In addition, each agency counsel is bound by independent professional ethical obligations and responsibilities as a licensed attorney.

(3) The Contracting Officer will document the acquisition file with agency counsel's opinion and recommendations. The Contracting Officer will document the reasoning/decision process when choosing not to follow the agency counsel's recommendations and provide a copy for counsel.

b. General Coordination Guidance for Acquisition Actions

The service organization will coordinate with agency counsel on acquisition actions (including supporting documents) with a total estimated potential value greater than \$100,000. This coordination guidance applies to acquisition actions including, as examples, but not limited to:

- (1) Required planning documents (SIRs) (e.g., acquisition strategy paper);
- (2) Solicitations, including Screening Information Requests (SIRs), amendments, and other public announcements, such as market surveys;
- (3) Responses to market surveys, including capability statements;
- (4) Market analyses;
- (5) Evaluation of offers or proposals (including preparation and review of technical, cost, past performance, management and other evaluation plans and reports);

- (6) Communications with offerors on acquisition matters having legal implications;
- (7) Contract awards, regardless of contract type, over the dollar value threshold specified above;
- (8) Acquisitions of Interests in Space and/or Land;
- (9) Debriefings, including responses to inquiries regarding awards from parties other than the awardee;
- (10) Task and delivery orders issued under contracts over the dollar value threshold specified above;
- (11) Modifications under contracts, including leases, that affect rights and obligations of either the Government or the Contractor (e.g., expanded scope of work, increased contract duration, increased contract cost, etc.);
- (12) Option exercises;
- (13) Award fee determinations;
- (14) Determinations as to contract adjustments;
- (15) Contract terminations;
- (16) Settlement of contract claims;
- (17) Liquidated damages;
- (18) Interpretation and determination of legal rights under contracts, orders or agreements;
- (19) Communications with contractors, offerors, and other parties on acquisition matters having legal implications, including correspondence that might impact the rights and obligations of any party;
- (20) Solicitation and contract matters involving rights in technical data, computer software, patents, copyrights, trade secrets and other forms of intellectual property, real estate, fiscal law, labor, environmental law, bankruptcy, anti-trust law, mergers and other non-procurement areas of law, affecting acquisitions;
- (21) Debarments and suspensions, nondisclosure agreements, centers of excellence and individuals hired by contractors who received a "buy-out."
- (22) Solicitation and contract matters involving state and local laws;
- (23) Software license agreements;
- (24) Purchases from government-wide schedules or vehicles;
- (25) Interagency agreements;
- (26) Grants (except Airport Improvement Grants);
- (27) Cooperative agreements;
- (28) Memoranda of Agreement and Memoranda of Understanding (excluding no-Cost Land On-Airport Memoranda of Agreement unless they contain non-standard clause language);
- (29) Franchises;
- (30) Agreements made under "other transaction authority;"
- (31) Unsolicited proposals;
- (32) Determinations, findings, and justifications issued pursuant to the Acquisition Management System, or as required by statute or regulation;

- (33) Proposed waivers and waivers of any portion of the Acquisition Management System;
- (34) Any other matters that in the opinion of agency counsel has an impact on the legality of an acquisition or legal consequences.

c. Coordination Guidance for Noncompetitive Procurements

For all non-competitive actions greater than \$10,000.00, not previously approved by a formal procurement plan or implementation planning strategy document, or subject to a direct award under AMS 3.6.1.3.5 or 3.6.1.3.6, or procurements under the Ability/One program or Randolph-Sheppard Act under AMS 3.8.4.2, the Service Organization must coordinate with agency counsel on any single source justification. The service organization must also coordinate with agency counsel on procurements greater than \$10,000 that requires a brand name mandatory rational basis or a waiver from the Acquisition Management System's competition policy. Finally, the Service Organization must coordinate with agency counsel on any rational basis justification for noncompetitive awards above \$25 million to SEDB 8(a) firms.

d. Coordination Guidance for Emergency Actions

Legal coordination is not required in the event of an emergency as covered in AMS 3.2.2.4.1.1, Emergencies.

e. Coordination Guidance for Unauthorized Commitments, Personal Services, and Other Matters

The service organization will coordinate with agency counsel on the following matters, regardless of competition or dollar value limitation :

- (1) Freedom of Information Act, Trade Secrets Acts, and Privacy Act concerns relating to proposed release(s) of acquisition information;
- (2) Matters involving the Forced Arbitration Injustice Repeal (FAIR) Act/A-76;
- (3) All purchases of Real Property;
- (4) Quit Claim and Warranty Deeds for the procurement of land;
- (5) Unauthorized agency commitments;
- (6) Proposals for innovative financing, such as advance payments, shared costs, or user fees;
- (7) Personal services contracts;
- (8) Consulting and advisory services
- (9) Matters relating to export controls or non-U.S. citizens;
- (10) Matters involving information, personnel or physical security;
- (11) All condemnation/Eminent Domain actions (e.g., declaration of taking, straight taking, etc.);
- (12) Sufficiency of title in real estate acquisitions;
- (13) All disposal actions where the FAA will transfer real property interest to a non-governmental agency or transfer agent;
- (14) Matters raising ethical or Procurement Integrity Act issues, or concerning conflicts of interest (personal and organizational), federal and state fraud statutes, or other federal and state criminal statutes.
- (15) Policy memoranda, procedures, regulations, orders, and guidance concerning acquisition matters;
- (16) Proposed legislation and testimony for legislative hearings on acquisition matters;

- (17) Correspondence about acquisition matters with parties outside the agency, including Congress, the General Accounting Office, and other federal agencies, or correspondence under the signature of the Secretary, Deputy Secretary, Administrator, Deputy Administrator or Regional and Center Directors;
- (18) Any proposed deviation from a required clause;
- (19) Any agreements for Real Property with foreign governments or entities; and
- (20) Any new acquisition of Housing.

5 Representation

- a. Agency counsel will represent the service organization in any protest of an award or other procurement action, and in contract claims, disputes, or controversies by and against the FAA, including all meetings, negotiations, discussions, or communications on the matter after an action has been filed in an administrative, judicial, or FAA forum.
- b. Agency counsel will represent the service organization on behalf of the FAA in communications, negotiations, and meetings with other parties touching upon the legal rights and obligations of the parties, or where another party, including a government party, is expected to be represented by legal counsel.

6 Exceptions and Waivers Revised 9/2020

At Headquarters, the Assistant Chief Counsel for Procurement, and at Regions and Centers, the Region or Center Counsel, may make written exceptions to the Legal Coordination Policy described in Section 1.2.14, adjust dollar minimums, or in appropriate cases, waive the Coordination Policy.

B Clauses

[view contract clauses](#)

C Procurement Forms Added 9/2021

Document Name

D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Document Name

F Procurement Tools and Resources Added 9/2021

Document Name

Section Revised: T3.2.2.4 –Single Source

Procurement Guidance - (10/2021)

T3.2.2.4 - Single Source Revised 10/2006

A Single Source Contracting Added 10/2006

- 1 Basis for Single Source Revised 9/2021
- 2 Market Analysis Supporting Single Source Revised ~~7/2021~~10/2021
- 3 Award of Single Source Revised 9/2021

B Clauses Added 10/2006

C Procurement Forms Revised 9/2021

D Procurement Samples Revised 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T3.2.2.4 - Single Source Added 10/2006

A Single Source Contracting Added 10/2006

1 Basis for Single Source Revised 9/2021

(a) Single source procurement may be used when in the FAA's best interest. A factual, reasoned, and well-documented rationale must support the decision to use a single source. Excluding emergencies, there are no predetermined or prescribed conditions for using a single source. Each single source decision stands alone and is based on the circumstances.

(b) The rational basis for a single source decision must be documented by the service organization, reviewed by Legal for sufficiency, approved by the Service Organization Official and (if applicable) Contracting Officer's Representative (COR), and concurred with by Contracts or, for purchase card transactions, the Purchase Cardholder. This rationale is documented in a:

- (1) Stand-alone, single source justification using the "Single Source Justification for Products, Services, and Construction Template", located in "Procurement Templates" or the "Single Source Justification for Real Property Template," located in "Real Property Templates & Samples";
- (2) Procurement Plan, if a formal plan is established; or
- (3) Implementation Strategy and Planning Document, if applicable.

(c) Approval of Implementation Strategy and Planning Document or approval of a Procurement Plan constitutes approval of a single-source procurement; however, the rational basis for the single source decision must be reviewed by Legal for sufficiency; no further approval or documentation is necessary.

(d) For single source procurements with a total estimated potential contract value of \$10,000 or less, a justification is not required.

(e) A single source justification is not required for noncompetitive set-asides to an 8(a)-certified Socially and Economically Disadvantaged Business (SEDB), Service Disabled Veteran Owned Small Business (SDVOSB), Women-Owned Small Business (WOSB), Economically Disadvantaged Women-Owned Small Business (EDWOSB), or Historically Underutilized Business Zone (HUBZone) small business. (See AMS Procurement Guidance T3.6.1 "Small Business Program"). A single-source justification is also not required for procurements conducted in accordance with the Javits-Wagner-O'Day Act (Ability/One Program) or the Randolph-Sheppard Act as specified in AMS Guidance T3.8.4.

(f) A single source justification is not required for a site-specific requirement for land or antenna/equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA; or for operational

facilities that house equipment and/or personnel that provide Air Traffic Control services to aircraft operating in the NAS. The head of the Technical Operations service organization, or designee, will provide an annual determination identifying equipment and facilities subject to this subsection.

2 Market Analysis Supporting Single Source Revised 7/2021-10/2021

(a) Market analysis provides factual data to form conclusions and verify assumptions that FAA's technical and business interests are best served through a single source. For single source procurements over \$10,000, market analysis is required. A market analysis is not required for emergencies, noncompetitive set-asides to 8(a) SEDB, SDVOSB, WOSB, EDWOSB, or HUBZone small businesses, or for NAS site-specific land or antenna/equipment space or operational facilities acquisitions referenced in AMS 3.2.2.4 and T3.2.2.4A (1)(f) above. The method and extent of the analysis depends on the requirement, complexity, and estimated dollar value. (See AMS Procurement Guidance T3.2.1.2 "Market Analysis" for further information.)

(b) A formal market survey is one method to gather current data to support a single source decision. When used, a formal market survey must include a sufficiently detailed description of key requirements (e.g. technical performance requirements, land or space requirements, or essential knowledge, expertise, or experience, etc.) so that potential vendors can determine whether they have the capability to satisfy FAA's requirements.

FAA also uses these key requirements to evaluate capabilities of any vendors/ lessors responding to the market survey. The market survey may include explicit instructions to potential vendors/ lessors about the acceptable format, form, and level of detail for vendor capability statements or other vendor/lessor information that FAA will use to decide whether other capable vendors/ lessors exist and whether a competitive procurement is appropriate. (For more information about real property specific Market Surveys, See Section 4.2).

3 Award of Single Source Revised 9/2021

(a) After the required documentation, concurrences, approval and legal sufficiency are obtained for the single source justification as described above, the CO may negotiate contract terms and price or cost with the single source vendor and award the procurement action. Until the single-source justification is fully executed, no one may request any type of proposal information from the vendor.

(b) When the total estimated potential value of the procurement action is over \$150,000, the CO must issue a pre-award public announcement (excluding emergencies and other acquisitions that otherwise would not require announcement, e.g. Delivery Orders, Single Source SEDB, SDVOSB, WOSB, EDWOSB, and HUBZone awards) summarizing the basis for the single source decision. The CO may make a post award announcement to promote potential subcontracting opportunities. (Also see AMS Procurement Guidance T3.13.1 "Other Administrative Procedures" for information about notifications to FAA management and Congress).

B Clauses Added 10/2006

[view contract clauses](#)

C Procurement Forms Added 9/2021

	Document Name

D Procurement Samples Added 9/2021

	Document Name
	Notice of Intent to Contract With Single Source

E Procurement Templates Added 9/2021

	Document Name
	Single Source Justification for Products, Services, and Construction Template

F Procurement Tools and Resources Added 9/2021

	Document Name

Section Revised: T3.2.2.5 –Commercial and/or Simplified Purchase

Procurement Guidance - (10/2021)

T3.2.2.5 – Commercial and/or Simplified Purchase Method Revised 1/2016

A Simplified Purchasing

- 1 Simplified Purchasing Revised ~~7/2021~~10/2021
- 2 Purchase Orders Revised 9/2021
- 3 Blanket Purchase Agreement (BPA) Revised 10/2020
- 4 Prohibited and Restricted Purchases Revised 9/2021
- 5 FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops Revised 9/2020

B Clauses

C Procurement Forms Revised 9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T3.2.2.5 – Commercial and/or Simplified Purchase Method Revised 1/2016

A Simplified Purchasing

1 Simplified Purchasing Revised ~~7/2021~~10/2021

a. *Scope of Simplified Purchasing.* Simplified purchasing covers methods used to obtain noncomplex products or services through a contract, purchase order, blanket purchase agreement, and Federal Supply Schedule order. For purpose of AMS Guidance T3.2.2.5, the term “services” also includes real property related services such as appraisals, titles, surveys, and renting of portable or short term storage units. Simplified purchase methods apply to noncomplex products or services that have been sold at established catalog or market prices or where prices can be determined fair and reasonable (see AMS Policy 3.2.2.5).

b. *Simplified Purchasing vs. Complex Source Selection.* The complexity of FAA’s requirement shapes the complexity of the process to solicit, evaluate, and select a vendor. Contracting methods described in AMS Policy 3.2.2.3, Complex Source Selection, are generally not a time and/or cost efficient means for acquiring noncomplex products or services. There are exceptions to this consideration, such as when the procurement involves cost-reimbursement pricing or indefinite-delivery arrangements-- both noncomplex and complex work is required, in- depth evaluation is needed to select the best qualified vendor, or extensive contract terms and conditions are necessary.

c. Authorized users of the FAA purchase card must use methods described in T3.2.6 when procuring items; however, Contracting Officers (CO) or others delegated procurement authority outside of the purchase card program may determine, based on the factors surrounding each procurement, which purchasing method is appropriate, Simplified Purchase Method or Complex Source Selection.

d. *Micro-Purchase Threshold.*

(1) Simplified purchases with a total estimated potential value (TEPV) under the applicable micro-purchase threshold must be performed using the purchase card.

(2) The micro-purchase thresholds are:

- (a) \$10,000 for commercial supplies;
- (b) \$10,000 for construction (Note: Above \$10,000 may not be done as a simplified purchase); and
- (c) \$10,000 for services.

(3) Procurement requests under the micro-purchase threshold must not be submitted for

award under a contract unless approved by the cognizant procurement office.

e. *Funding*. All applicable funding requirements detailed in AMS Procurement Guidance T3.3.1 apply to procurement conducted using simplified methods. These include:

- (1) Compliance with the Anti-Deficiency Act;
- (2) Ensuring sufficient funds are available;
- (3) Ensuring awards made subject to the availability of funds include the appropriate AMS Clauses (i.e., AMS Clause 3.3.1-10, Availability of Funds, or AMS Clause 3.3.1- 11, Availability of Funds for the Next Fiscal Year); and
- (4) Ensuring that severable services crossing fiscal years are awarded using appropriate funds, and that the contract period does not exceed one year.

f. *Mandatory Sources and Other Requirements*. When using simplified purchase methods, COs or others with procurement authority (to include purchase card holders) must consider the following requirements:

(1) *Strategic Sourcing Initiatives*. This includes the following:

(a) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES). The SAVES program is a mandatory source for some equipment and office supplies (see AMS Procurement Guidance T3.8.6).

(b) Enterprise software licensing agreements such as Oracle.

(2) *Federal Prison Industries, Inc. (FPI) (also known as UNICOR)*. For those products available through FPI, the procedures detailed in AMS Procurement Guidance T3.8.4, Government Sources of Products/Services, must be strictly followed.

(3) *Randolph-Sheppard Act*. FAA must first consider the blind in the operation of vending facilities. (See AMS Procurement Guidance T3.8.4)

(4) *Javits-Wagner-O'Day Act (JWOD)*. FAA must first consider items and services available through the AbilityOne Program (formerly JWOD) before going to other sources. (See AMS Procurement Guidance T3.8.4)

(5) *General Services Administration (GSA) Federal Supply Schedules (FSS)*. When procuring items through a GSA FSS, FAA must follow the procedures detailed under AMS Procurement Guidance T3.8.3, Federal Supply Schedules. Note that GSA is not a mandatory source for FAA.

(6) *Section 508 Requirements*. FAA must procure products and services that comply with federal requirements for Section 508 of the Rehabilitation Act. (See AMS Procurement Guidance T3.2.2.3.B.4)

(7) *Environmental Requirements.* FAA should acquire environmentally preferable, energy and water efficient, and recycled content products and services when possible. (See AMS Procurement Guidance T3.6.3 for additional information)

(8) *Labor Laws.* Depending on the nature of the requirement, FAA must comply with applicable labor laws when conducting procurements (i.e. the Service Contract Labor Standards for applicable services over \$10,000, and the Walsh-Healey Public Contracts Act for materials, supplies, articles, or equipment exceeding \$15,000). (See AMS Procurement Guidance T3.6.2 for additional information)

g. *Set-asides.* Purchases for products or services with the exception of real property related services with an anticipated value between \$10,000 and \$250,000, except those conducted using a purchase card, are automatically reserved for competition among Socially and Economically Disadvantaged Business (SEDB) 8(a), Service-Disabled Veteran-Owned Small Business (SDVOSB), Economically Disadvantaged Women-Owned Small Business (EDWOSB), Historically Underutilized Business Zone (HUBZone), Small Disadvantaged Business (SDB), and/or Women-Owned Small Business (WOSB) vendors, unless the purchaser, with review of the cognizant Small and Small Disadvantaged Utilization Specialist, determines there is not a reasonable expectation of obtaining quotes or offers from responsible SEDB 8(a), SDVOSB, EDWOSB, HUBZone, SDB, and/or WOSB concerns that are competitive in terms of market prices, quality, and delivery. More information on set-asides, to include SEDB 8(a) and others, is available in AMS Procurement Guidance T3.6.1.

h. *Competition.*

(1) *Over \$10,000.* Purchases over \$10,000 must be competed among two or more qualified vendors, unless the proposed action is supported by a single source justification or is set-aside under a small business preference program authorizing noncompetitive awards.

(2) *\$10,000 and under.* Competition is encouraged, but not mandatory for purchases \$10,000 and under. Purchasers should consider the administrative cost of the purchase versus potential savings that could result from competition. Purchases \$10,000 and under on a single source basis do not require file documentation justifying the single source decision. However, purchasers should use sound business judgment and have a documented reasonable basis for any decisions involving purchases.

(3) Purchasers may obtain competition by reviewing commercial catalog/price lists, or by soliciting quotes informally by telephone, email, or fax, or formally through written or electronic methods of request for quotation or offer.

i. *Solicitation.*

(1) *Request for Quotation.* A request for quotations (RFQ) may be used to obtain information on prices and availability of products and services. An RFQ is generally used

when the purchaser expects to place an order, but does not wish to bind the vendor at the time the quotation is received. All of the terms and conditions to be included in any purchase that may result from the RFQ are to be included in the RFQ. An RFQ may be either written or oral.

- (2) *Request/Solicitation for Offer.* A request/solicitation for offer (RFO/SFO) is appropriate when the purchaser needs some amount of discussion to clearly communicate needs and to understand products and services being offered. The purchaser should discuss all aspects of the RFO/SFO, including quality, warranty, payment and other significant aspects included in a written RFO/SFO. An RFO/SFO may be used when non-price-related information and evaluation is necessary.

j. *Discounts.* Quantity discounts are usually offered for purchasing a specific quantity or dollar value of items at one time, or a specified dollar total over an agreed-upon time period. A trade discount from the catalog/commercial list price is one that is offered to all customers by a vendor. This may include promotion of seasonal, new or slow-selling items or special discounts offered by a manufacturer or dealer. A prompt payment discount is one that is offered by a vendor for payment by the Government before the date payment is due. Such discounts are not considered in the evaluation of quotes or offers, but any discount offered is included in the award. The purchaser should seek discounts when appropriate.

k. *Competition- Evaluation and Basis for Award.*

(1) Purchasers must consider all timely and responsive quotations or offers received. Individual RFQs/RFOs must define the requirements for timeliness and responsiveness.

(2) Requirements solicited on an all-or-none basis specify that prospective vendors must furnish all of the requested items to be considered for award. If vendors are informed in the request for quotation or offer, the purchaser may consider the lowest cost alternative between a single award and multiple awards based on the prices for each item and the administrative costs of making multiple awards.

(3) An award is made to the responsive and responsible vendor offering the best value to FAA. Purchasers may evaluate vendors on the basis of lowest priced, technically acceptable offer or quote, which will result in the best value to FAA.

(4) Non-price related evaluation factors, such as past performance, quality of product/space/land offered, vendor qualifications, delivery terms or warranties, may also be evaluated but must be communicated to vendors.

l. *Price Reasonableness.*

(1) *Purchases of \$10,000 or less.* Purchasers do not need to document price analysis for purchases when they find no justifiable reason to question that the price is fair and reasonable. The administrative cost of verifying price reasonableness of purchases may

more than offset potential savings from detecting instances of overpricing. When there are doubts about the reasonableness of the price, the purchaser should obtain additional quotes or take other action to verify price reasonableness, such as reviewing current published price lists, reviewing historical prices for purchases of the same or similar item or service, or requesting data from the vendor on sales prices to other customers.

(2) *Purchases Over \$10,000*. Procurements over \$10,000 must be supported by a written determination by the purchaser that the price is fair and reasonable. When possible, this determination is based on competition. When awards are made without competition or when only a single responsive quote or offer is received, the purchaser must use other price analysis techniques to determine if the price is reasonable. Price analysis techniques that the purchaser may consider, along with the independent Government cost estimate, include:

- (a) Comparison of prior pricing for the same or similar items or services in comparable quantities;
- (b) Application of rough yardsticks (e.g. dollars per pound or horsepower) to highlight significant inconsistencies that warrant additional pricing inquiry;
- (c) Comparison with current published catalog or market prices, similar indexes, or discount or rebate arrangements;
- (d) Ascertaining that law or regulation establishes pricing; and
- (e) Other information gained through a market survey for similar products or services. (See AMS Guidance T3.2.1.2 Market Analysis for additional information on market surveys).

m. *Documenting the Award Decision*. Purchasers should have a rational basis for purchasing decisions. The extent of documentation substantiating purchase decisions depends on the value and circumstances of the purchase. If the purchase involves an item that is a viable exemption to an applicable prohibition or restriction (See AMS Procurement Guidance T3.2.2.5.A.4, Prohibited and Restricted Purchases), then the award decision must, despite the dollar value of the purchase, document the basis and background for the purchase.

(1) *Purchases of \$10,000 or less*. Documentation is not required except for awards that, without documentation, would appear questionable to a “reasonable person” with market knowledge of the products or services being purchased.

(2) *Purchases over \$10,000*. The purchaser must record prices received, names of vendors contacted, and discounts, and other terms quoted by each vendor. If competitive quotes or offers were solicited and award was made to other than the lowest priced, technically acceptable vendor, the purchaser must document evaluation criteria and results, and basis for the award decision.

n. *Rotating Awards for Requirements of \$10,000 or less.* When possible and economically feasible, purchasers should distribute simplified purchase awards of widely available products and services among vendors.

o. *Requisitioner Role.*

(1) The requisitioner defines the requirement by supplying applicable information or documentation to the purchaser that includes, but is not limited to, the following:

- (a) Part numbers;
- (b) Item descriptions;
- (c) Statements of work and specifications;
- (d) Packaging and shipment requirements;
- (e) Inspection and acceptance requirements;
- (f) Funding and any required approvals; and
- (g) Suggested vendors.

(2) As necessary, the requisitioner may assist the purchaser with evaluation of offered products and services.

(3) As part of market research, requisitioners may contact potential vendors about product or services offered, pricing, quality, warranty, delivery terms, and other information. Requisitioners should clearly communicate to prospective vendors that the contact is for market research purposes only and is not a commitment to purchase.

p. *Inspection and Acceptance.*

(1) Acceptance by a FAA representative constitutes acknowledgement that the supplies or services received conform to applicable contract or purchase requirements. Acceptance is documented using an inspection and acceptance form such as FAA Form 256, by a commercial shipping document or packing list, or through other means to include annotation on the purchase order form, or payment of valid invoice.

(2) Acceptance of the supplies or services is the responsibility of the CO or cardholder. This responsibility may be assigned to a program office or center representative.

(3) Each award must specify the place of acceptance as well as other necessary acceptance provisions.

2 Purchase Orders Revised 9/2021

a. *Purchase order.* A purchase order is a simplified form for ordering supplies or services, generally issued on a fixed-price basis, at stated prices based upon specified terms and conditions. Purchase orders must specify the quantity of supplies or scope of services being ordered and contain a date by which the goods or services must be delivered to FAA.

b. *Unpriced purchase orders.* An unpriced purchase order is an order for supplies or services that does not have a price established at the time of its issuance.

(1) An unpriced purchase order may be appropriate when:

(a) It is impractical to obtain pricing in advance of issuance of the purchase order; or

(b) The purchase is for repairs to equipment requiring disassembly to determine the nature and extent of repairs; the material is available from only one source and for which cost cannot be readily established; or the order is for supplies or services for which prices are known to be competitive but exact prices are not known (e.g. miscellaneous repair parts, maintenance agreements).

(2) Unpriced purchase orders may be issued by using written purchase orders or through various electronic means. A realistic monetary limitation, either for each line item or for the total order, should be placed on each unpriced purchase order. The monetary limitation becomes an obligation subject to adjustment when the firm price is established. The contracting office should follow-up each order to ensure timely pricing. The Contracting Officer (CO) or designated representative should review the invoice price and, if reasonable, process the invoice for payment.

c. *Content.* Purchase orders should contain the following information:

(1) Trade and prompt payment discounts that are offered;

(2) The quantity of supplies or services ordered;

(3) Inspection provisions; origin or destination;

(4) A determinable date by which delivery of supplies or performance of services is required; and

(5) Information should be requested by the preparer of the purchase order as follows:

- (a) Vendor's SSN or taxpayer identification number (TIN);
- (b) Vendor's business status as one of the following classifications:
 - (i) Individual/sole proprietorship;
 - (ii) Corporation;
 - (iii) Partnership; or
 - (iv) Other (specify);

(6) The CO's signature. Electronic signatures may be used in the production of purchase orders by automated methods (see AMS Policy 3.1.9).

d. *Clauses.* The CO may print on the purchase order form, or include as an attachment, the clauses they consider to be generally suitable for their purchases. The following forms may be used for purchase orders:

- a. Optional form 347, Order for Supplies or Services;
- b. Optional form 348, Order for Supplies or Services Schedule-Continuation; or
- c. Other agency generated or contractor provided forms.

e. *Procedure.* Procurement under a purchase order valued over \$10,000 must be competed among two (2) or more qualified vendors, unless the action is supported by a single source justification (AMS Procurement Guidance T3.2.2.4) or conducted under a small business preference program authorizing noncompetitive awards (AMS Procurement Guidance T3.6.1).

(1) *Competitive Awards.*

- (a) Before issuing a request for quotations (RFQ), the CO should develop a listing of potential sources based on the requirement. This list can be derived from sources to include, but not limited to:
 - (i) Previous vendors utilized in FAA or source lists kept in the contracting offices;
 - (ii) Qualified vendor lists;
 - (iii) The requiring or program office;
 - (iv) System for Award Management (SAM); and

(v) The Small Business Program (AAP-20).

(b) All procurements over \$150,000 must be publicly announced on SAM.gov Contract Opportunities website or through other means. This requirement does not apply to emergency actions, purchases from an established QVL, exercise of options, or modifications within the scope of a purchase order.

(c) Once a list of potential sources is available, the CO should solicit as many sources as practicable, but must solicit quotations from at least two or more sources. A listing of the vendors to whom the RFQ was distributed, as well as any responses or quotes, must be included in the official file.

(d) Prior to award of the purchase order, the CO must confirm that the vendor is not listed in the "Exclusions" portion of the "Performance Information" capability of SAM and has successfully registered in SAM. The CO should document this process in the file, which may include simply printing the results from each search or including a statement of the checks being completed in a memo to file.

(e) *Vendor Selection.* Once a qualified and responsible vendor is selected, the CO must support the decision with a written determination that the price is fair and reasonable and that the award is in the best interest of FAA. This determination must be included in the official file.

(f) *Price Analysis/Reasonableness.* See AMS Procurement Guidance T3.2.3.A.1.

(2) *Single source awards.*

(a) The rational basis for a single source decision must be documented by the service organization, reviewed by Legal for sufficiency, approved by the Service Organization Official, and concurred with by Contracts or, for purchase card transactions, the Purchase Cardholder. The single source documentation must be included in the official contract file.

(b) There are no predetermined or prescribed conditions for using a single source, and each single source decision stands alone and must be based on the circumstances surrounding each specific need.

(c) Single source procurements over \$10,000 (excluding emergencies) require market analysis to verify that FAA's technical and business interests are best met through a single source.

(d) A single source justification is not required for noncompetitive set-asides to an

8(a)-certified Socially and Economically Disadvantaged Business (SEDB), Service Disabled Veteran Owned Small Business (SDVOSB), Economically Disadvantaged Women-Owned Small Business (EDWOSB), Women-Owned Small Business (WOSB), or Historically Underutilized Business Zone (HUBZone) small business. (See AMS Procurement Guidance T3.6.1 “Small Business Development Program”). A single-source justification is also not required for procurements conducted in accordance with the Javits-Wagner-O’Day Act (Ability/One Program) or the Randolph-Sheppard Act as specified in AMS Guidance T3.8.4.

(e) A single source justification is not required for a site-specific requirement for land or antenna/equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA; or for operational facilities that house equipment and/or personnel that provide Air Traffic Control services to aircraft operating in the NAS. The head of the Technical Operations service organization, or designee, will provide an annual determination identifying equipment and facilities subject to this subsection.

(f) When the total estimated value is over \$150,000, the CO must issue a pre- award public announcement (excluding emergencies) summarizing the basis for the single source decision.

(g) Additional information regarding single source awards can be found in AMS Procurement Guidance T3.2.2.4.

f. Acceptance.

(1) A quotation resulting from a RFQ is not an offer, and cannot be accepted by FAA to form a binding contract. A contract is formed when the supplier accepts the offer, which can be done by:

(a) The supplier accepting the purchase order in writing to FAA. The Contracting Officer should require written acceptance of a purchase order when it is desired to consummate a binding contract before the contractor undertakes performance; or

(b) The supplier furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

g. Modification. Each purchase order modification should identify the order it modifies, contain an appropriate modification number, and identify what authority is being used to modify the order. The Contracting Officer determines when it is necessary to obtain a contractor’s written acceptance of a purchase order modification. Purchase orders may be modified by using:

(1) Standard Form 30, Amendment of Solicitation/Modification of Contract;

- (2) An agency-designed form or an automated format; or
- (3) A purchase order form.

h. *Termination.* A purchase order may be terminated, and the process to terminate an order depends on whether the order has been accepted.

- (1) If the purchase order has been accepted in writing by the contractor, the termination should be processed in accordance with AMS termination clauses.
- (2) If the purchase order has not been accepted in writing by the contractor, the CO should notify the contractor in writing that the purchase order has been canceled and request the contractor's acceptance of the cancellation. If the contractor:
 - (i) Accepts the cancellation and does not claim that costs were incurred, no further action is required.
 - (ii) Does not accept the cancellation or claims that costs were incurred, the CO should process the termination in accordance with the termination clauses.
- (1) Any purchase order with an anticipated value of \$10,000 or more must include a Purchase Order/GSA/FSS Order File Checklist (see Procurement Checklists) in the official file.
- (2) The CO may choose to use the Simplified Purchase Summary (see Procurement Forms) to document actions associated with the award of a purchase order.

3 Blanket Purchase Agreement (BPA) Revised 10/2020

a. A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for products or services by establishing "charge accounts" with qualified vendors. BPAs may be appropriate when other procurement vehicles such as using a purchase card, purchase order, or contract are not appropriate or available, and:

- (1) A wide variety of items in a class of supplies or services are required, but the exact items, quantity, and delivery requirements are not known in advance and vary;
- (2) FAA offices in given areas do not have or need purchasing authority, but need a commercial source for supplies or services;
- (3) Establishing a BPA would avoid writing numerous purchase orders;
- (4) There is no existing source for the same supply or service that FAA must use; these sources include:

- (a) Federal Prison Industries, Inc. (UNICOR);
- (b) Randolph-Sheppard Act or Javits-Wagner-O'Day Act (JWOD) programs;
- (c) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES) program;
- (d) National Wireless program; and
- (e) Active contracts containing the "Requirements" clause.

b. A BPA is not a contract. Instead, it is an understanding between FAA and a vendor that allows FAA to place future orders more quickly by identifying terms and conditions applying to those orders, a description of the supplies or services to be provided, and methods for issuing and pricing each order. The FAA is not obligated to place, nor must a vendor accept, any orders. Either party may cancel a BPA at any time. An enforceable contract exists only when FAA places an order against the BPA and it is accepted by the vendor.

c. Establishing a BPA.

- (1) After determining a BPA would be advantageous, the Contracting Officer (CO) may concurrently establish BPAs for the same type of items or services with more than one vendor to provide maximum competition for orders.
- (2) There is no maximum dollar limitation for a BPA; however, each BPA must have a total ceiling amount. If the anticipated total value of all orders against a BPA will exceed \$150,000, then it is subject to public announcement and applicable review requirements, including review by legal counsel for orders exceeding \$100,000 (as well as review by the Chief Financial Officer (CFO) (see AMS Procurement Guidance T3.2.1.4 for applicable standards) and Chief Information Officer (CIO) (See AMS Guidance T3.2.1.A.3) if information technology resources over \$250,000 are involved)).
- (3) Only a CO can place an individual order exceeding \$100,000.
- (4) Using a BPA does not relieve the CO or authorized users from keeping obligations and expenditures within available funds.
- (5) Price reasonableness and competition requirements apply to obtaining needs through BPAs. A BPA with one vendor does not justify purchasing from only one source; the initial BPA and future orders awarded under the BPA are subject to competition requirements. (Refer to AMS Procurement Guidance T3.2.2.4, Single Source).
- (6) BPAs may include Federal Supply Schedule (FSS) contractors utilizing the BPA

provision in their FSS contract.

(7) BPAs can be prepared without a Procurement Request (PR), but only after contacting vendors to arrange for maximum discounts, documentation requirements for individual purchases, periodic billings, and other necessary details.

(8) Open market purchases are not affected by an existing BPA. The same class of supplies or services offered through a BPA may be purchased on the open market, and both BPA and non-BPA vendors may be solicited.

d. *Mandatory Terms and Conditions.* A BPA must include:

(1) *Description of Agreement.* A statement that the vendor will furnish products or services, described in general terms, if and when requested by the CO, or the authorized representative, during a specified period and within a stipulated aggregate amount.

(2) *Extent of Obligation.* A statement that the FAA is obligated only to the extent of authorized orders actually placed under the BPA.

(3) *Purchase Limitation.* A statement specifying the dollar limitation for individual orders under the BPA.

(4) *Notice of Individuals Authorized to Purchase under the BPA.* The CO will furnish to the vendor a list of individuals authorized to purchase under the BPA, identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each position title or individual.

(5) *Clauses.* The BPA must include any prescribed clauses applicable to the dollar thresholds of particular orders against the BPA, e.g., Service Contract Labor Standards for orders for services over \$10,000.

(6) *Delivery Tickets.* A requirement that all shipments under the BPA, except subscriptions and other charges for newspapers, magazines, or other periodicals, will be accompanied by delivery tickets or sales slips with the following information as a minimum: name of individual who placed the order, name of contractor, BPA number, date of purchase, purchase number, itemized list of products or services furnished, quantity, unit price and extension of each item, and date of delivery or shipment.

(7) *Invoices.* Invoices are to be submitted at least monthly or upon expiration of the BPA for all deliveries made during the billing period. Each invoice must:

(a) Identify the delivery tickets covered in the invoice;

(b) State the total dollar value of each delivery ticket; and

(c) Be supported by receipt copies of each delivery ticket.

e. *Procurement Request (PR)*. A PR is not required for each order. Instead, the BPA can be bulk funded to the ceiling on the first order, and then each subsequent order applied to the BPA until funds are no longer available. Rather than obtaining a PR for each order, bulk funding is a process where the CO receives authorization through a PR to obligate funds against a specified lump sum of funds reserved for a specific purpose for a specified period of time. The amount of bulk funding should represent the anticipated need through the BPA, and not serve as means to avoid fiscal restrictions or appropriation law. The CO, or authorized BPA user, may make purchases based on an oral request or a memorandum from an authorized requisitioner in the program/requisitioning office. The program/requisitioning office should confirm oral requests in writing as a matter of record.

f. *Authorized Users*. Each person authorized to place orders against a BPA should receive written guidance from the CO on the limitations of authority and responsibilities associated with using the BPA. Authorized users must follow ordering procedures to ensure proper delivery, billing, and payment. Purchases that would normally be made as single order should not be split to avoid any user ordering limitations. Program/requisitioning offices should notify the CO whenever an authorized user changes or the need for purchasing against the BPA no longer exists; the CO should modify the BPA to reflect any changes in authorized users.

g. *Placing an Order*.

(1) When placing an order, the authorized user contacts the vendor and provides:

(a) Authorized user's name, phone number, and office.

(b) BPA number and order number assigned by the authorized user.

(c) Description of required supply or service (part number, description, quantity, etc.).

(d) Delivery address and telephone number.

(e) Delivery date.

(f) Reminder that the order is tax exempt.

(2) The authorized user should request any offered discounts, and inform the vendor that the BPA number and order number is to appear on the packing slip and invoice/billing statement.

(3) The authorized user should document the order in a log or by other means to record details of the transaction (item description, price, quantity, date, etc.).

h. *Segregation of Duties*. In accordance with Office of Management and Budget (OMB) Circular A-123, the same person may not make the purchase, receive supplies or services, and authorize payment. The same person may perform two of the functions, but not all three.

i. *Review*. The CO should review a sufficient random sample of BPA files at least annually to ensure that authorized users are following procedures.

j. *Unauthorized Commitments*. Only COs or people authorized by the CO may place orders against a BPA. Any purchase made by an unauthorized person, or any purchase placed against a BPA which exceeds the authorized limitation is an unauthorized commitment.

k. *Market Analysis*. The CO must maintain awareness in market conditions, sources of supply, and other factors that may warrant making new arrangements with different vendors or modifying existing arrangements.

l. *Expiration*. A BPA is considered complete when purchases under it equal its total dollar limitation or when the stated time period expires.

4 Prohibited and Restricted Purchases Revised 9/2021

a. This guidance is intended to assist FAA personnel in determining whether a particular item or service would be a permissible purchase using appropriated funds. There is no ironclad rule or readily available list that describes in every case whether a particular purchase using appropriated funding is permissible. FAA personnel should use common sense and sound judgment, based on appropriations law and related decisions of the Comptroller General.

b. The Government Accountability Office (GAO) established a "necessary expense" doctrine. This doctrine is described fully in Volume I, Third Edition, of "Principles of Federal Appropriations Law," (GAO Red Book) issued by GAO, Office of the General Counsel. This publication states, in part, that for an expenditure to be justified under the necessary expense theory, it must meet certain tests, including: "The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available". By projection, the necessary expense doctrine does not allow use of appropriated funds to purchase items or services that can be reasonably interpreted to meet personal convenience and are not for a necessary Governmental function." (GAO Red Book, Volume I, Chapter 4, Section B.1.). The CO or purchase cardholder, consulting with budget officials and legal counsel, should make determinations with respect to the "necessary expense" doctrine about questioned or questionable items or services. Almost any listing of prohibited items of purchase is subject to exceptions. To quote the GAO Red Book "The Comptroller General has never established a precise formula for determining the application of the necessary expense rule. In view of the vast differences among agencies, any formula would almost certainly be unworkable. Rather, the determination must be made essentially on a case- by-case basis."

c. *Prohibited and Restricted Items.* For FAA, the following are prohibited or restricted items of purchase (this is not a complete list):

(1) **Drinking water**, except when:

(a) A duly constituted public health authority pronounces ordinary drinking water to be unsafe for human consumption at the site;

(b) A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;

(c) FAA personnel reasonably foresee a disaster or emergency, such as imminent landfall of a hurricane, and all of the following conditions are present:

(i) FAA personnel reasonably anticipate that drinking water at the site will be unsafe for human consumption;

(ii) The drinking water is for FAA personnel responding to or at the emergency or disaster site;

(iii) The amount of drinking water is commensurate with the anticipated response time at the site or the estimated time for the local drinking water to be considered safe for human consumption, whichever is shorter; and

(iv) The drinking water is purchased in a reasonable time-frame in advance of an imminent emergency or disaster, and the time-frame does not exceed the time required to purchase, stage, and properly distribute the drinking water; or

(d) The drinking water is provided in a controlled environment as may be necessary to enable collections for drug use analysis for safety sensitive positions.

(2) **Food or beverage**, except as described in AMS Procurement Guidance T3.2.2.5A.5, FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) **Gifts, gift certificates, and prepaid gift cards.**

(4) **Membership fees** for individual employees. The FAA may purchase membership in a society or association in its own name.

(5) **Subscriptions** to print or online publications or magazines not related to official duties.

(6) **Clothing** or personal apparel of any description, except:

(a) Special type clothing required by FAA. The requestor's supervisor must prepare a written justification for special type clothing and coordinate the justification with legal counsel.

(i) Clothing (such as a shirt with FAA logo) for recruitment activities such as job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources) may be authorized if it supports FAA business objectives and there is a bona fide need.

(ii) Clothing for air shows may be authorized if there is a bona fide need for FAA employees to be clearly identifiable.

(b) Clothing and equipment classified as personal protective equipment (PPE). The requestor's supervisor must prepare a written justification for PPE, but does not need coordination with legal counsel when the value of the procurement is below \$100,000. All PPE must:

(i) Have proper controls established to ensure that PPE is appropriate and accounted for; and

(ii) Be maintained and used according to standards established by the Occupational Safety and Health Administration (OSHA). See the OSHA website for more information.

(c) All clothing or PPE purchased by FAA remains the property of the Government and not the employee.

(7) **Rental of aircraft** by anyone not in an aircraft-related position.

(8) **Fans, air conditioning and cooling equipment, space heaters and heating equipment**, except as properly installed for general use in connection with the maintenance and operations requirements for the site.

(9) **Water coolers, vacuum cleaners, and other household appliances** (i.e. refrigerators, microwaves, etc.), except as requisitioned for general use by, or authorized in writing for purchase by, the authorities responsible for building maintenance and equipment.

(10) **Cellular or communication devices and services** covered by the National Wireless Program Office (NWPO). Devices provided through the NWPO include cellular phones, one and two-way pager devices, multi-functional server-based devices (e.g. Blackberries), and satellite phones.

(11) **Personalized stationery**, including paper pads, with the name, position, title, logo, or office of FAA personnel, except when:

(a) There is a clear business need approved by the head of the line of business or staff office; and

(b) The requestor notifies Office of Financial Analysis (AFA-1) of the planned purchase in advance.

(12) **Tote bags.**

(13) **Coffee mugs.**

(14) **Water bottles.**

(15) **Leather and other natural hide portfolios, binders, or planners.**

(16) **Give-away items**, including portfolio covers, flash drives, pens, and pencils, for internal or external marketing of products, services, or programs by FAA, with the following exception and conditions:

(a) Purchase of promotional items for recruitment activities, such as for job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources), may be authorized when these items support FAA business objectives and there is a bona fide need. Where there is a bona fide need, the selection of items must meet all of the following criteria:

(1) Has a practical use appropriate for the audience, and are business related items, such as pens, rulers, calculators, post-it notes, business card holders, lanyards or note pads;

(2) The items cannot be a personal use item, such as coffee cups, water bottles, umbrellas, candy or food items, or fans;

(3) Is economically priced and reasonably portable; and

(4) Avoids the perception that taxpayer dollars have been frivolously spent.

(b) Recruitment items must comply with FAA branding order 1700.6C and display the FAA jobs website (<http://www.faa.gov/jobs>).

(17) **Coins**, including but not limited to Challenge and Commemorative coins are strictly prohibited, with the exception of coins purchased for Non-Monetary Awards.

(18) **iPAD** and similar equipment and related services, with the following exceptions and conditions:

(a) All purchases of iPAD or similar equipment and related services must be coordinated with the Chief Information Officer's (CIO) Strategy and Performance Service, IT Asset & Purchase Management, via the My IT website (<https://myit.faa.gov/>).

(b) iPAD and similar equipment and related services for approved purchases may be procured using the FAA purchase card if the costs do not exceed established single and monthly purchase limits.

(c) LOB/SO CIOs are responsible for determining the level of acceptable security risk. As such, each LOB/SO must review the default device settings and modify accordingly to ensure the appropriate level of information assurance.

(d) Each LOB/SO must maintain an inventory of all iPAD or similar equipment.

(19) **Purchases for Non-Monetary Awards**, except:

(a) The FAA may purchase plaques, trophies, pins, flags, retirement plaques and certificates, coins, or similar symbolic items for non-monetary awards to officially recognize employees. Items purchased for a non-monetary award must not exceed \$250 per award' including but not limited to engraving, shipping and handling. FAA Corporate Awards and Recognition program are not subject to the \$250 per award limit, but should be reasonably priced and symbolic items. All official awards must comply with HRPM, Performance Management PM- 9.2, Recognizing Employees. Requisitioning offices must maintain appropriate documentation for purchases related to non-monetary awards.

(b) To enhance an official awards ceremony, reasonable and nominally priced purchases, such as for decorations and related supplies, are permissible. An official awards ceremony is defined as publicized event that is anticipated to have an audience and the presentation of an award(s) recognizing FAA Federal employee(s). Awards presented at official awards ceremonies comply with HRPM, Performance Management PM-9.2.

(c) Awards Programs are a structured process for organizations to recognize employees. All awards must be based on an act, service, accomplishment, contribution or performance that supports the LOB/SO Business Plan and/or FAA strategic priorities. Written justification is required for all awards given. The written justification varies in detail depending on the type and value of the award and must be attached to the purchase card request or Procurement Request in PRISM. For example, the written justification for informal, non-monetary awards must include:

Name of the employee (or employees if it is a group award), Date, Reason for award, Type, and Cost of award. Additional information on awards ceremonies and non-monetary awards can be found in the Award Ceremonies and Non-Monetary Awards SOP. Directions for accessing the Awards Ceremonies and Non-Monetary Awards SOP on the Standard Operating Procedures webpage of the Financial Services (ABA) website are as follows:

1. Go to <https://my.faa.gov/>
2. Click on the “Organizations” Tab
3. Click on “Financial Services” under “Finance and Management (AFN)”
4. Click on “Standard Operating Procedures”
5. Click on “Award Ceremonies and Non-Monetary Awards”

(20) **Business Cards**, except:

(a) The FAA may use appropriated funds to purchase business cards for employees if necessary to conduct business and approved in advance. Associate/Assistant Administrators, ATO Vice Presidents, and Regional Administrators/Center Directors determine who in their organization is authorized business cards paid for with appropriated funds to conduct FAA business. Authority for this determination may be delegated to a lower level.

(b) Business cards purchased with appropriated funds are Government property. Employees should exercise good judgment and caution when using their cards in situations not directly related to conducting FAA business.

(c) All FAA business cards must comply with branding logo and template requirements in FAA Order 1700.6C. See the FAA website for more information (FAA only)

(d) Purchasers must use one of two printing sources when using appropriated funds to purchase business cards:

(1) FAA Aeronautical Center's Media Solutions Group; or

(2) Lighthouse for the Blind, Inc., Seattle, WA (pursuant to the mandatory source requirements of the Javits-Wagner-O'Day Act). See the Lighthouse for the Blind's website for ordering information.

(21) **Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services**, with the following exceptions and conditions:

(a) Before purchasing or renting storage units or procuring storage services, a determination must be made by the Contracting Officer (CO) that existing storage space is not available from other sources within FAA or elsewhere in Government.

COs or purchase cardholders must coordinate storage requirements with a Real Estate CO. This coordination is intended to ensure that no in-house storage capabilities are available, and no real estate or facility factors exist that may affect the procurement, such as applicable real estate regulations or unique site requirements.

(b) Storage units or services for purposes of this guidance are limited to portable storage units or containers designed for temporary (less than six months) on-site use or temporary storage in a secured centralized storage center owned by the vendor. The storage units or containers must be classified as personal property and not affixed or attached by a permanent means to the land (real property) upon which they may be situated for temporary use. If the portable storage unit or container is to be placed on land owned or leased by FAA, the CO or cardholder must ensure FAA has legally established rights to use the land before staging or storing a third party item of property (storage unit or container) procured under a service agreement.

(c) When possible, storage requirements for a construction project should be incorporated into the statement of work or specification under the associated construction contract.

(d) Purchase cards cannot be used:

(1) For purchase, rental, or lease of land or buildings;

(2) To purchase real property, which is defined as land, buildings, structures or rights over or under the land, or things that are permanently affixed or attached to the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself; and

(3) For long-term storage unit rental or services (long-term is defined as six months or more), unless the purchase card is being used as a payment vehicle against a contract or lease signed by a CO or real estate CO and:

(i) The total cost of rental or purchase of storage services does not exceed the cardholder's delegated authority;

(ii) The portable units are not classified as real property (as defined above); and

(iii) The terms and conditions of the rental or storage services (i.e. termination authority) are set forth in writing and signed by both parties.

(22) Purchasing Printers and Other Printing Devices:

(a) Purchases of desktop and/or stand-alone imaging devices and related consumables require approved waivers in accordance with FAA Order 1720.37A.

(23)

(24) **Certain Telecommunications and Video Surveillance Services or Equipment** are prohibited, as provided in T3.6.4 A 16.

5 FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops Revised 9/2020

a. FAA-sponsored conferences, seminars, ceremonies, and workshops are a routine element of FAA operations. FAA personnel must consider certain special requirements when planning and conducting such events. All such conferences must comply with the standard operating procedures (SOPs) specified by the Office of Financial Analysis. For current forms and guidance, please see the Financial Standard Operating Procedure "Planning Meetings, Conferences, Workshops, Training Events and Award Ceremonies in the FAA" at the Financial Services website <https://employees.faa.gov/org/staffoffices/afn/finance/sop/?selected=Planning Meetings, Conferences, Workshops, Training Events, and Award Ceremonies in the FAA>

b. *Securing Conference Space.* The Real Estate Contracting Officers have the authority to secure conference space. Generally, such space can be contracted for utilizing a standard purchase order or on a purchase card. If the conference space provider produces their own conference form, it must be reviewed for unacceptable terms/language and when acceptable, signed by a Real Estate Contracting Officer.

c. *Legal Review.* Legal counsel must first review any agreement in excess of \$100,000 (total Government expenditures including room charges for the attendees) between FAA and a conference space provider. Except as provided below, agreements below \$100,000 do not require legal review, but review may be sought at the discretion of the real estate CO or the real estate CO's designate.

(1) Changes to the following AMS clauses require legal review regardless of the dollar value:

(a) 3.9.1-1 Contract Disputes; and

(b) 3.10.6-1 Termination for Convenience of the Government (Fixed Price).

(2) Incorporation of the following clauses requires legal review regardless of the dollar value:

(a) Clauses making any law (including state law) other than Federal law controlling;

(b) Clauses that establish liability beyond what is funded or contingent liability

beyond the limits imposed allowed the Federal Tort Claims Act; and

(c) Clauses requiring binding arbitration.

d. *Travel-related Costs.* Employee's travel, hotel, local transportation, and per diem must be paid with the FAA travel card. An employee's travel-related costs cannot be paid for under a contract, purchase order, or FAA purchase card.

e. *Items for Distribution to Conference Attendees.* Generally, personal use items, such as mugs, clothing, or bags, cannot be purchased and given to conference attendees. Conference planners must consult with legal counsel before purchasing any items to be distributed to conference or event attendees.

f. *Food and Beverage.*

(1) The FAA may purchase food and beverage for conference participants under the following narrowly defined circumstances:

(a) *Formal Conferences.*

(i) The term "formal conference" usually denotes topical matters of interest to and participation of multiple agencies and/or non- Governmental participants. Other indicators are registration, published substantive agenda, scheduled speakers and discussion panels.

(ii) The meals, beverages, and refreshments must be incidental to the conference.

(iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.

(iv) The meals, beverages, and refreshments must be part of a formal conference that includes both substantial functions at the time the meals, beverages and refreshments are served and substantial functions separate from when food, beverages, or refreshments are served.

(v) At formal conferences where the above criteria are met, FAA may also pay for the food, beverages, and refreshments of private citizens or Federal employees from other agencies when an administrative determination is made that their attendance is necessary to achieve the program or conference objectives.

(b) *Internal FAA Training Conferences.* The meals, beverages, and refreshments must be:

- (i) Incidental to the conference;
 - (ii) Attendance at the meals must be necessary for full participation in the conference; and
 - (iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.
- (c) *Award Ceremonies.* The FAA may purchase light refreshments for award ceremonies. If not awarded through a contract or purchase order, the FAA purchase card must be used to purchase light refreshments.
- (d) *Cultural Awareness Ceremonies.* The FAA may purchase food or beverage if part of a formal program intended to both advance Equal Employment Opportunity objectives and provide cultural or ethnic awareness. Food and beverage must be part of a culture's food and beverage and offered as part of a larger program that serves an educational function.
- (e) *Official Receptions.* For official receptions hosted by the Administrator (or designated senior executive) for foreign or non- Federal dignitaries, FAA may purchase light refreshments, meals, snacks, and beverages. The Administrator's official reception and representation funds must be used for these events (see FAA Order 1200.3E). The FAA purchase card may be used to purchase food or beverage for these events.
- (2) Except for FAA award ceremonies and the Administrator's official receptions, FAA purchase card cannot be used as a procurement vehicle for food and beverage; a purchase order or contract must be used instead. However, the purchase card may be used to make payment against a duly executed contract signed by a warranted real estate CO.
- (3) Food and beverage costs must be reasonable, must not include alcoholic drinks, and cannot be purchased for amusement or social events, such as networking sessions, team-building exercises, or hospitality suites (except hospitality functions at the Administrator's official receptions).
- (4) The FAA cannot purchase food and beverage for routine meetings to discuss day- to-day issues. Examples of routine meetings include those to discuss day-to- day operations, to develop business plans to accompany FAA goals, or to develop performance targets.
- (5) The FAA may pay a facility rental fee that includes the cost of food or beverages provided to FAA employees where the fee is all-inclusive, not negotiable and competitively priced to those that do not include food.
- (6) Foods that constitute "light refreshments" are snacks, such as cookies, and beverages. Light refreshments for morning, afternoon or evening breaks are defined

to include: coffee, tea, milk, juice, soft drinks, water, donuts, bagels, fruit, pretzels, cookies, chips, muffins or related items of similar value. This is distinguished from a meal such as breakfast, lunch or dinner, or multiple heavy hors d'oeuvres. Meals are not “light refreshments.”

g. *Justification for Food and Beverage.* The FAA's policy is to not use, nor create the appearance of use of, Government funds to entertain Federal employees. Before contracting for a conference or event with food and beverage, the Director (or equivalent management level) of the organization sponsoring the event and legal counsel must approve a written justification explaining why food and beverage is necessary. The justification must describe:

- (1) Nature and purpose of the event;
- (2) Applicability of the event to FAA’s programs or activities;
- (3) Any statutory, regulatory, or other authority for the event;
- (4) Participants;
- (5) Dates;
- (6) Facility and location;
- (7) Estimated cost;
- (8) Reason why food and beverage is necessary;
- (9) Meal(s) that will need to be offset in attendees’ travel vouchers; and Keynote functions which include meals. The description of the function is to include any keynote speakers, the type of presentation(s) being given and how they are integral to the conference.

h. *Travel Vouchers and Per Diem.* Conference attendees must offset in their travel vouchers the cost of meals paid for and provided by the Government. Light refreshments do not need to be offset in travel vouchers. See FAA Travel Policy for rules when meals are furnished by the Government.

i. *Registration Fees.* Registration fees are payments collected by FAA, or a support contractor on behalf of FAA, from private and other public participants attending an FAA- sponsored conference. If FAA wishes to charge a registration fee, it must have statutory authority to do so. Under 31 U.S.C. 3302(b), FAA must deposit registration fees in the U.S. Treasury, unless there is specific statutory authority for FAA to keep and use fees collected. Under 49 U.S.C. 45303, the FAA currently has statutory authority to credit back to its operations account authorized collections; therefore conference planners should check with legal counsel before depositing authorized registration fees into the General Fund of the United States Treasury Department. FAA

may authorize a contractor providing conference services to charge a registration fee to conference participants. In cases where the FAA co- sponsors a conference and the co-sponsor incurs costs of the conference without FAA reimbursement, the co-sponsor is also permitted to collect registration fees. The registration fee amount is subject to the real estate Contracting Officer approval consistent with the contract terms and conditions and may include a reasonable profit for the contractor's efforts.

B Clauses

[view contract clauses](#)

C Procurement Forms Revised 9/2021

Document Name
Amendment of Solicitation/Modification of Contract - Standard Form 30
Order for Supplies or Services - OF-347
Order for Supplies or Services Continuation - OF-348
Request for Quotation - SF-18
Simplified Purchase Summary

D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Document Name
Procurement Planning for Simplified Acquisitions - Template A

F Procurement Tools and Resources Added 9/2021

Document Name
AMS Procurement Related Thresholds and Review Requirements

Section Revised: T3.6.1 –Small Business Program

Procurement Guidance - (10/2021)

T3.6.1 - Small Business Program Revised 10/2021

A Small Business Program Revised 10/2021

1 Procurement Team Responsibilities in Support of the Small Business Program

Revised ~~9/2021~~10/2021

2 The FAA Small Business Program and Liaison Representative Involvement

Revised 1/2021

3 Prime Contracting with Small Business Revised ~~7/2021~~10/2021

4 Subcontracting with Small Business Revised 9/2021

5 Size Standard Verification Revised 9/2021

6 Contract Consolidation and Bundling Revised ~~9/2021~~10/2021

7 Mentor-Protégé Revised 7/2021

8 Joint Ventures Revised 9/2021

9 Tiered Evaluations Revised 1/2021

B Clauses Revised 10/2006

C Procurement Forms Revised 9/2021

D Procurement Samples Revised 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources ~~Added 9/2021~~Revised 10/2021

G Appendix Revised ~~9/2021~~10/2021

~~Appendix A— Small Business Bundling Decision Flowchart~~ Revised 9/2021

T3.6.1 - Small Business Program Revised 7/2020

A Small Business Program 7/2020

1 Procurement Team Responsibilities in Support of the Small Business Program Revised ~~9/2021~~10/2021

- a. Effective implementation of the FAA's small business programs in their contracting actions, including achieving program goals;
- b. Develop small businesses by taking all reasonable action to increase small business participation in the FAA's procurements (including subcontracts);
- c. Consider the feasibility of breaking out requirements to increase opportunities for small businesses to successfully compete for prime contracts;
- d. Consider the extent of small business participation in contract performance during procurement planning;
- e. Obtain guidance from the FAA Small Business Program (AAP-20) liaison as it relates to small business issues. In doing so, the service teams must coordinate with representatives of the cognizant local AAP-20 staff as soon as requirements estimated to exceed \$250,000 are defined to receive assistance in identifying opportunities for small businesses. This requirement to coordinate does not apply to contract modifications or requirements having an anticipated dollar value exceeding \$10,000 but not over \$250,000 that are set-aside for Socially and Economically Disadvantaged Business (SEDB) 8(a), Service-Disabled Veteran-Owned Small Business (SDVOSB), Historically Underutilized Business Zone (HUBZone) small businesses, Small Disadvantaged Businesses (SDB), Women-Owned Small Business (WOSB) firms, and/or Economically Disadvantaged Women-Owned Small Business (EDWOSB) firms or a small business if no SEDB 8(a), SDVOSB, HUBZone small businesses, SDB, WOSB, and/or EDWOSB firms that are competitive in terms of market prices, quality, and delivery can be identified. Use the Small Business Set-Aside Determination and Coordination Form located in Procurement Templates to coordinate with AAP-20 and attach (as applicable) the statement of work, single source rational basis documentation, fully executed single source justification, market survey and market analysis to the form (see also AMS Policy on ~~SEDB 8(a)~~ Set-Asides for use of this form). In addition, any requirements that had previously been procured through the Small Business/SEDB/8(a) Program, but not currently proposed for reprocurement through the Small Business/SEDB/8(a) program must be approved by the cognizant local AAP-20 staff. If agreement cannot be reached, the FAA Acquisition Executive's approval is required prior to any public notice or solicitation of the requirement; and
- f. Participate and assist in the development of small business conferences and outreach efforts sponsored by AAP-20.

2 The FAA Small Business Program (AAP-20) and Liaison

Representative Involvement Revised 1/2021

The Small Business Program (AAP-20) maintains a direct working relationship with the procurement teams. When appropriate, AAP-20 interacts with all procurement teams in the following areas to provide support and ensure effective and consistent program implementation:

- a. Participates in procurement workshops to increase access to and award of FAA contracts by small businesses;
- b. Participates in acquisition and procurement planning meetings and other scheduled meetings with the procurement team as advisors;
- c. Identifies potential small businesses that qualify for a particular procurement;
- d. Provides the procurement team with source lists of small businesses;
- e. Ensures that the source selection criteria used to select firms for award is fair, consistent and does not limit opportunities for small businesses;
- f. Provides advertising recommendations to the integrated products teams to ensure all requirements are being advertised in media accessible to small businesses;
- g. Responds to written and telephone inquiries from small businesses and small businesses owned and controlled by a socially and economically disadvantaged individuals regarding procurement opportunities with FAA;
- h. Reviews final source lists to ensure an adequate representation of small businesses;
- i. Reviews questions presented at conferences, preparing answers to questions submitted by small businesses, interacting with the integrated product teams for distribution of responses to all potential contractors;
- j. Reviews annual representations and certifications and accompanying documentation using official records found on the System for Award Management (SAM) and VetBiz;
- k. Small Business Administration's Small Business websites will be utilized to support market Research;
- l. Reviews subcontracting plans;
- m. Ensures that small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals are entered into the AAP-20 database;
- n. Assists in the proposal evaluation process as a non-voting member of the evaluation team;
- o. Conducts on-site pre-award verifications to verify that a sufficient percentage of the ownership, as

well as the business control and management of the firm is vested in a disadvantaged group member(s), service-disabled veteran(s) or woman (women) and verify compliance with small business program requirements;

p. Participates in debriefings of unsuccessful small businesses to ensure fair and equitable treatment to all firms;

q. Participates in postaward meetings with successful offerors to ensure a clear understanding of small business program guidelines and engagement of small businesses as subcontractors; and

r. Conducts on-site compliance reviews of contractors with subcontracting plans to ensure compliance with program requirements.

3 Prime Contracting with Small Business Revised ~~7/2021~~10/2021

a. While the use of small business set-asides as a method of procurement is not mandatory, small businesses must be afforded reasonable opportunities to compete for all procurements. All procurements must first be considered for set-aside before procuring the product or service on an unrestricted basis. Thus, procurement teams should take the following actions when appropriate:

(1) Set-aside procurements competitively in accordance with the policies and guidance contained in Acquisition Management System (AMS) Section 3.2.2 Source Selection;

(2) Consider the capabilities of small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals during the screening phase of each procurement;

(3) Breakout large requirements (if severable) into smaller sized requirements to provide for greater small business participation;

(4) Plan procurements of supplies and services so that more than one small business firm may perform the work (if the work exceeds the amount that a single small business can handle);

(5) Ensure that delivery schedules are established on a realistic basis to encourage small business participation to the extent consistent with actual requirements of FAA;

(6) Encourage teaming relationships among small and large businesses to enhance competition; and

(7) Utilize small businesses on qualified vendor lists on a rotational basis to increase opportunities to the greatest number of small businesses.

b. Conducting set-asides with small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) Certified), service-disabled veteran owned small

businesses, Historically Underutilized Business Zone (HUBZone) small businesses, small disadvantaged businesses, and Women Owned Small Businesses:

- (1) All set-asides are to be conducted directly with small businesses independent of the Small Business Administration (SBA);
- (2) Procurements may be set-aside exclusively for small businesses;
- (3) Procurements may also be set-aside exclusively for competitive award among small socially and economically disadvantaged businesses (SEDBs) that are expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) program. Each firm claiming 8(a) status is required to provide a copy of its SBA 8(a) certification letter to the Contracting Officer (CO) as evidence of eligibility. A firm's 8(a) certification may also be verified on the firm's Dynamic Small Business Search (DSBS) profile at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm. There is no requirement for SBA's approval to make award to the SEDB;
- (4) Industry should be notified of the applicable North American Industry Classification System (NAICS) code representing the predominant portion of the overall requirement in the public announcement to ensure small business size eligibility requirements are timely known;
- (5) Procurements may be set-aside exclusively for competitive award among service-disabled veteran owned small businesses (SDVOSB) as defined by 38 U.S.C. 101. Each firm claiming SDVOSB status is required to complete the electronic annual representations and certifications via SAM at <https://www.sam.gov>. to self-certify its eligibility. The firm must also be verified by the Department of Veterans Affairs and appear in the Vendor Information Pages on the Veteran Affairs website;
- (6) There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB. However, unless the firm is designated as a SDVOSB on the VA website, the CO must not make an award to the firm as a SDVOSB;
- (7) Procurements may be set-aside exclusively for competitive award among HUBZone small businesses that are expressly certified by the Small Business Administration (SBA) for participation in the HUBZone program. Each firm claiming HUBZone status is required to complete the electronic annual representations and certifications via SAM at <https://www.sam.gov> to self-certify its eligibility. Certification can also be verified on the List of Qualified HUBZone Small Business Concerns at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm. There is no requirement for SBA's approval to make award to the selected HUBZone small business;
- (8) Procurements may be set-aside exclusively for competitive award among Women-Owned Small Business (WOSB) that are either certified by the SBA or by a third-

party certifier approved by the SBA and are eligible under the WOSB Program. Program participants' WOSB certification must be on the firm's Dynamic Small Business Search (DSBS) profile- (https://web.sba.gov/pro-net/search/dsp_dsbs.cfm). WOSB concerns are eligible under the WOSB Program when the acquisition is assigned a North American Industry Classification System (NAICS) code in which SBA has determined that WOSB concerns are underrepresented or substantially underrepresented in Federal procurement. These NAICS are listed by the SBA on their website (see <https://www.sba.gov/document/support--qualifying-naics-women-owned-small-business-federal-contracting-program>). There is no requirement for SBA's approval to make award to the selected WOSB;

(9) Procurements may be set-aside exclusively for competitive award among Economically Disadvantaged Women-Owned Small Business (EDWOSB) that are either certified by the SBA or by a third-party certifier approved by the SBA and are eligible under the WOSB Program. Program participants' EDWOSB certification must be on the firm's Dynamic Small Business Search (DSBS) profile- (https://web.sba.gov/pro-net/search/dsp_dsbs.cfm). EDWOSB concerns are eligible under the WOSB Program when the acquisition is assigned a North American Industry Classification System (NAICS) code in which SBA has determined that EDWOSB or WOSB concerns are underrepresented or substantially underrepresented in Federal procurement. These NAICS are listed by the SBA on their website (see <https://www.sba.gov/document/support--qualifying-naics-women-owned-small-business-federal-contracting-program>). There is no requirement for SBA's approval to make award to the selected EDWOSB;

~~and~~

~~(10)~~

(10) Procurements may also be set-aside exclusively for competitive award among Small Disadvantaged Businesses (SDB). Each firm claiming SDB status is required to complete the electronic annual representations and certifications via SAM at <https://www.sam.gov>. to self-certify its eligibility;

and

(11) There is no order of precedence among the SEDB 8(a) ~~Program~~certified, HUBZone-~~Program~~, SDVOSB-~~Procurement Program~~, EDWOSB, WOSB, or the ~~WOSB Program~~SDB for set-asides. Results of market research and progress in the achievement of the agency's socio-economic goals should be considered when determining which ~~program~~set-aside to utilize. However, when contemplating a SDB set-aside, a SEDB 8(a) certified small business set-aside must first be considered. Also, any requirements that had previously been procured through the Small Business/SEDB/8(a) Program, SEDB 8(a) certified small business (competitive set-aside or noncompetitive) but not currently proposed for reprocurement through ~~the Small Business/SEDB/ 8(a) ~~program~~certified small business~~ must be approved by the cognizant local AAP-20 staff.

(~~H12~~) *Combined Set-Asides* Procurements may also be set-aside for competitive award among offerors that qualify as both SEDB 8(a) certified and SDVOSB. The requirements of section b are applicable to such combined set-asides.

(~~H13~~) A procurement may not be set-aside if:

(a) there is no reasonable expectation of obtaining offers from two or more responsible SEDB(8(a)) concerns, small business concerns, service-disabled veteran owned small business concerns, HUBZone small business concerns, ~~or small disadvantaged business concerns~~, WOSB concerns, or EDWOSB concerns that are competitive in terms of market prices, quality and delivery; or

(b) it is in the best interest of the FAA to contract with a single source or noncompetitively and the rational basis is documented; or

(c) extension of the current services.

c. Noncompetitive Awards to SEDB (8(a)), SDVOSB, HUBZone, WOSB, and EDWOSB Firms (See AMS Policy Section 3.6.1.3 for applicable thresholds). In addition to meeting eligibility requirements described above, a rational basis for the decision to award a noncompetitive SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB procurement ~~should~~must be documented. Procurement decision makers should consider potential SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB sources of supply contained in the Dynamic Small Business Search (DSBS), System for Award Management (SAM), and VA Vendor Information Pages Vetbiz website available on the Small Business Program's (AAP-20) website. The ownership and control of the sources on this website have been verified by Veterans Affairs (VA). The public announcement requirements of the AMS Section 3.2.1.3.11 are not applicable to noncompetitive awards to SEDB (8(a)), SDVOSB, HUBZone, WOSB, or EDWOSB firms if the product being procured is not available from Federal Prison Industries.

There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB. However, unless the firm is designated as a SDVOSB on the VA website, the CO must not make an award to the firm as a SDVOSB.

d. Noncompetitive awards above \$25 million to SEDB 8(a) firms: For such awards, the following additional requirements apply:

(1) The program official must prepare a written justification at a minimum documenting the rational basis for the award as follows:

(a) Description of the supplies/services being purchased;

(b) Determination that a noncompetitive contract is in the best interests of FAA;

(c) Determination that the anticipated cost of the contract will be fair and reasonable;

and

(d) Applicable AMS references.

(2) The CO and program official must approve the justification, with concurrence by legal counsel (on the justification) and AAP-20 (on the Small Business Set-Aside Determination and Coordination form) before negotiations on the contractor's proposal.

4 Subcontracting with Small Business Revised 9/2021

a. In procurements estimated to exceed \$750,000 (\$1,500,000 for construction), the CO must incorporate subcontracting provisions (including attainable and reasonable subcontracting goals for the participation of small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, women-owned small businesses and service disabled veteran owned small businesses). A sample Master Subcontracting Plan to satisfy the applicable requirements of AMS clause 3.6.1-4, Small, Small Disadvantaged, Women-Owned, Service-Disabled Veteran-Owned and HUBZone Small Business Subcontracting Plan is located in FAST under Procurement Samples. Subcontracting provisions are not required for; (1) commercial items; (2) when there are no subcontracting possibilities or (3) when the prime contractor is a small business or a small business owned and controlled by a socially and economically disadvantaged individual. The contract should include requirements for contractors to periodically report data on subcontracting accomplishments in sufficient detail to determine the extent of the contractor's attainment of subcontracting goals.

b. The following subcontracting considerations should be used in procurements that have subcontracting provisions as appropriate:

(1) Establishing goals requires much care to ensure that they are realistic and motivate the contractor. Percentage goals that are unrealistically low will only create a false sense of success and should be avoided. Likewise, goals that are too high can be counterproductive.

(2) Subcontracting requirements should be a subject for review and discussion at postaward conferences. It is important to monitor contractor performance in meeting goals. This is particularly important early in the life of the contract when the majority of subcontracts will be awarded. Prompt corrective action should be taken if it appears that a contractor will not meet its goal.

(3) The procurement team should notify the Small Business Program (AAP-20) or Small Business Liaison Representative of the opportunity to review the subcontracting proposal in sufficient time to provide the representative a reasonable time to review the material and submit advisory recommendations prior to award. The CO is responsible for ensuring that the contractor attains all subcontracting goals. Subcontracting data (accomplishments) must be timely reported in the Electronic Subcontracting Reporting System (eSRS).

(4) The CO should provide a listing of potential small business subcontractors for

information purposes. The FAA should not make any warranty as to their capabilities or abilities to perform any portion of the contract. The listing may be obtained from the AAP-20 Small Business Liaison Representative.

(5) Evaluate the percentage and dollar volume of planned subcontracting and total dollar volume of expected awards to small business subcontractors (including small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone, women- owned and service-disabled veteran owned concerns).

(6) There should be separate subcontracting goals for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone, women-owned and service-disabled veteran owned concerns expressed as a percentage of total planned subcontracting dollars.

(7) Identify principal product and service areas to be subcontracted and identify those areas where it is planned to use small business, small businesses owned and controlled by a socially and economically disadvantaged individual, HUBZone, women-owned and service- disabled veteran owned subcontractors.

(8) Review via SAM representations and certifications of principal proposed small business and small disadvantaged business subcontractors, including the type of product or service and the dollar value to be awarded to each principal subcontractor. This information is to be used to assist the CO in making a determination as to the acceptability of the proposed subcontracting goals. The contractor is not contractually bound to make awards to the designated subcontractors nor is the Government approving the subcontracts.

(9) Evaluate extent of complexity and variety of work to be performed by small businesses with greater weight on businesses performing substantive or high technology components or services. In this way, FAA can ensure that small businesses will receive technologically challenging or a meaningful portion of the overall contract.

(10) Include monetary incentives for subcontracting such as including an award fee provision to provide incentives for providing meaningful, technically substantive subcontracting work to small businesses. Under this approach subcontracting proposals that provide appropriate percentage commitments would be accepted, but an award fee contract line item would be incorporated as part of the contract. Receipt of the award fee would be after either preliminary design review, critical design review, or other appropriate milestones. The percentage amount of the award fee pool would be based on the extent the contractor has provided meaningful, technically substantive work to eligible small businesses within the previously accepted percentage goals.

(11) Evaluate past performance related to the offeror's compliance with prior subcontracting proposals and subcontracting plans, with greater weight on subcontracting proposals received from offerors that have successfully attained or exceeded subcontracting goals in the past.

(12) Evaluate level of participation of small businesses evaluated based on the percentage of

the total contract value (if appropriate). This is particularly recommended for requirements traditionally performed by small businesses that may be displaced due to the bundling of smaller set-aside requirements into one larger contract.

(13) Contractors should be required to flow down similar subcontracting requirements under the prime contract to all subcontractors (except small businesses).

(14) If an offeror submits an offer that does not address each of the subcontracting provisions, the CO should advise the offeror of the deficiency and request submission of a revised offer by a specific date; and (15) If the offeror does not submit an offer incorporating the subcontracting requirements within the time allotted, the offeror should be ineligible for award.

5 Size Standards Verification Revised 9/2021

a. To preserve the integrity and foster the objectives of the small business program, FAA must satisfy itself that the ownership, control, and day-to-day management requirements of the program are fulfilled. Each business claiming eligibility as a small business, small business owned and controlled by a socially and economically disadvantaged individual (8(a) certified), service-disabled veteran-owned small business, HUBZone small business, economically disadvantaged women-owned small businesses, or women owned small business must be required to provide evidence of eligibility prior to award. Prospective contractors must complete electronic annual representations and certifications via SAM at <https://www.sam.gov> and as directed in Guidance subparagraph T3.6.1A3(b). The FAA reserves the right to review and verify each firm's program eligibility. If the firm is not a small business as defined by the North American Industry Classification System (NAICS) code size standards, it will not qualify as a small business.

For set-asides restricted to small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) certified), service-disabled veteran owned small businesses, HUBZone small businesses, economically disadvantaged women-owned small businesses, and/or women owned small businesses, verification will be performed using SAM and VetBiz (as required). The contracting officer will reference the date of verification in the contract file. For agreements, the contractor retains eligible status for the term of the agreement. The contractor must recertify their business size prior to any extensions of the agreement including exercising an option period.

b. For unrestricted procurements, the successful offeror must complete electronic annual representations and certifications at SAM.

c. When subcontracting goals are established for small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, small businesses owned and controlled by women, and service-disabled veteran owned small businesses, the prime contractor must verify a completed profile via SAM for such small businesses counted toward the successful offeror's subcontracting goals.

d. A successful small business program rests with FAA's ability to limit participation to bona fide small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, small businesses owned and controlled by economically disadvantaged women, small businesses owned and controlled by women, and service-disabled veteran owned small businesses, for they are the intended recipients of the agency's procurement dollars earmarked for small business set-asides.

e. For the owner of the firm to be found to have controlling interest in the company, the following must exist:

- (1) The eligible owner holds the position of chairperson of the board, president or chief executive officer;
- (2) The eligible owner has the right to vote his or her shares or other equity interest to elect the majority of voting members of the board of directors or other governing body;
- (3) The eligible owner holds at least 51% unconditionally ownership and control of the operation; or
- (4) The eligible owner has direct full-time responsibility for the day-to-day management of the business, as evidenced by all of the following:
 - (a) Directly related managerial or technical experience and competency;
 - (b) Establishment of company policies;
 - (c) Determination and selection of business opportunities;
 - (d) Supervision and coordination of projects
 - (e) Control of major expenditures;
 - (f) Hiring and dismissing key personnel;
 - (g) Marketing and sales decisions; and
 - (h) Signature on major business documents.

6 Contract Consolidation and Bundling Revised 9/2021-10/2021

a. Definitions:

(1) (1) A bundled Consolidation or consolidated requirement means a Screening Information Request (SIR) for a single contract is, a multiple-award contract that is

entered into, a task order, or a delivery order to meet/satisfy:

(a) Two or more requirements of the FAA for supplies or services that have been provided to or performed for the FAA under two or more separate contracts, each of which was lower in cost than the total cost of the contract for which offers are solicited; or

(b) Requirements of the FAA for construction projects to be performed at two or more discrete sites.

(2) A “separate contract” as used in this subpart, means a contract that ~~are consolidated~~ has been performed by any business, including small and other than small business.

(3) ~~(2)~~ Bundling ~~is~~ means a subset of consolidation ~~of that combines~~ two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a SIR for a single contract ~~that renders a contract, a multiple-award contract, or task delivery order, to be awarded and performed in the United States, that is~~ likely to be unsuitable for award to a small business concern (including socially and economically disadvantaged (8(a)), small disadvantaged, service-disabled veteran owned, HUBZone, economically disadvantaged women-owned and women-owned small businesses) due to:

(a) ~~(a)~~ The diversity, size, or specialized nature of the elements of the performance specified;

(b) ~~(b)~~ The aggregate dollar value of the anticipated award;

(c) ~~(c)~~ The geographical dispersion of the contract performance sites; or

(d) ~~(d)~~ Any combination of the factors described in paragraphs (2) ~~(i), (ii), (b), and (iii)~~ of this definition.

(4) ~~(3)~~ Measurably Substantial Benefits are- A “separate smaller contract” as used in this subpart, means a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small business concerns.

b. General

(1) If the dollar amount of benefits accruing from the requirement is considered consolidated but not bundled, the FAA shall follow the guidance regarding consolidation in T3.6.1.A.6.c.

(2) If the requirement is considered both consolidated and bundled, the FAA shall follow the guidance regarding bundling ~~of~~ in T3.6.1.A.6.d.

(3) The requirements. These of this subsection, T3.6.1.A.6 do not apply:

(a) If a cost comparison analysis will be performed in accordance with OMB Circular A-76;

(b) To orders placed under single-agency task-order contracts or delivery-order contracts, when the requirement was considered in determining that the consolidation or bundling of the underlying contract was necessary and justified; or

(c) To requirements for which there is a mandatory source (see T3.8.4), this exception does not apply:

(i.) When any of the exceptions listed at T3.8.4.A.3.b apply; or

(ii.) When the FAA may obtain from commercial sources, items listed on the “Procurement List” issued by The Committee for Purchase from People Who are Blind or Severely Disabled (see T3.8.A.5.e).

c. Consolidation

(1) Consolidation may provide substantial benefits can be in many forms to the Government. However, because of the potential impact on small business participation, before conducting an acquisition that is a consolidation of requirements with an estimated total dollar value exceeding \$10 million (including options), the applicable supervisory contracting officer shall make a written determination that the consolidation is necessary and justified, after ensuring that:

(a) Market research has been conducted;

(b) Any alternative contracting approaches that would involve a lesser degree of consolidation have been identified;

(c) The determination is coordinated with the FAA Small Business Program (AAP-20);

(d) Any negative impact by the acquisition strategy on contracting with small business concerns has been identified;

(e) Steps are taken to include small business concerns in the acquisition strategy.

(2) The applicable supervisory contracting officer may determine that the

consolidation is necessary and justified if the benefits of the acquisition would substantially exceed the benefits that would be derived from each of the alternative contracting approaches identified under paragraph (1)(b) of this subsection, including benefits that are quantifiable in dollar amounts as well as any other specifically identified benefits.

(3) Such benefits may include cost savings, or price reduction, ~~quality efficiency,~~ and, regardless of whether quantifiable in dollar amount:

(a) Quality improvements that will save time or improve or enhance performance, ~~result in better terms and conditions, reduce or~~ efficiency;

(b) Reduction in acquisition cycle times ~~and any other benefits~~

(c) ~~b. This section is not applicable to contracts whose total Better~~ terms and conditions; or

(d) Any other benefit.

(4) Benefits.

(a) Benefits that are quantifiable in dollar amounts are substantial if individually, in combination, or in the aggregate the anticipated financial benefits are equivalent to:

(i.) 10% of the estimated ~~bundled~~ contract or order value (including ~~all~~ options) ~~is if the value is \$94 million or less than \$10 Million;~~ or

(ii.) 5% of the estimated contract or order value (including options) or \$9.4 million, whichever is greater, if the value exceeds \$94 million.

(b) Benefits that are not quantifiable in dollar amounts shall be specifically identified and otherwise quantified to the extent feasible.

(c) Reduction of administrative or personnel costs alone is not sufficient justification for consolidation unless the cost savings are expected to be at least 10 percent of the estimated contract or order value (including options) of the consolidated requirements, as determined by the applicable supervisory contracting officer.

~~d. Bundling. Bundling of contractual requirements is discouraged unless it is necessary and justified.~~

(1) This section is only applicable to contracts with an estimated total dollar value exceeding \$10 million (including options).

(2) ~~Bundling is necessary and justified if there are substantial benefits which are measurable and quantifiable. The service team must document the~~ may provide substantial benefits to the FAA. However, because of the potential impact on small business participation, before conducting an acquisition strategy that involves bundling, the FAA shall make a written determination that the bundling is necessary and justified. A bundled requirement is considered necessary and justified if the FAA would obtain measurably substantial benefits as compared to meeting FAA requirements through separate smaller contracts or orders.

(3) The FAA shall quantify the ~~Government-~~ specific benefits identified through the use of market research and other techniques to explain how their impact would be measurably substantial.

(4) Such benefits may include, but are not limited to:

(a) Cost savings;

(b) Price reduction;

(c) Quality improvements that will save time or improve or enhance performance or efficiency;

(d) Reduction in acquisition cycle times, or

(e) Better terms and conditions.

(5) ~~Benefits must be~~ are measurably substantial if individually, in combination, or in the aggregate the anticipated financial benefits are equivalent to:-

(a) 10% ~~if of the total anticipated estimated~~ contract or order value (including options) if the value is \$94 million or less; or ~~5% if the contract value exceeds \$94 million.~~

(b) 5% of the estimated contract or order value (including options) or \$9.4 million, whichever is greater, if the value exceeds \$94 million.

~~Reduction of administrative or personnel costs alone is not sufficient justification for d. To ensure that prime contract opportunities are provided to small businesses, the following alternatives must be considered prior to bundling:~~

~~(1) Breaking up the procurement into smaller discrete procurements to render them suitable for small business set asides;~~

~~(2) Breaking out discrete components, where practicable, to be set aside for small business; or~~

~~(3) When issuing multiple awards against a single solicitation, reserving one or more awards for small businesses.~~

~~(6) e. If a service team determines that contract bundling is to be used, the service team must inform the administrator and include written justification in the file (a part unless the cost savings are expected to be at least ten percent of the acquisition strategy plan, separate memo, etc.) outlining the need for bundling and documenting the impact on attaining the FAA socioeconomic goals. Additionally, if bundling would result in any adverse impact to achievement estimated contract or order value (including options) of the agency's socioeconomic goals, the SIR for the bundled procurement must be approved by the FAA Acquisition Executive (FAE) requirements.~~

~~In addition, the service team must notify the local Small Business Program (AAP-20) prior to issuance of the SIR.~~

~~(7) f. In a bundled procurement, the Notwithstanding paragraphs (1) through (5) of this subsection, the FAA Acquisition Executive (FAE) may determine that bundling is necessary and justified when:~~

~~(a) The expected benefits do not meet the thresholds for a substantial benefit but are critical to the agency's mission success; and~~

~~(b) The acquisition strategy should provide provides for maximum practicable participation by small business concerns. Some of the ways this can be accomplished include the following:~~

~~(8) (1) Authorizing two In assessing whether cost savings and/or more price reduction would be achieved through bundling, the FAA shall:~~

~~(a) Compare the price that has been charged by small businesses to form a contract team and for the work that team to they have performed; or~~

~~(b) Where previous prices are not available, compare the price, based on market research that could have been or could be considered charged by small businesses for the work previously performed by other than a small business for purposes.~~

~~(9) If a determination is made that bundling is necessary and justified, the contracting officer shall include its justification in the procurement planning documents and provide it to the FAA's Small Business Program (AAP-20) upon request. The justification must include:~~

~~(a) The specific benefits anticipated to be derived from substantial bundling;~~

(b) An assessment of a bundled requirement provided that each the specific impediments to participation by small business partner to the teaming arrangement individually qualifies concerns as a contractors that result from substantial bundling;

(c) Actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming;

(d) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the assigned NAICS codes for the requirement, contract, or order, that may be awarded to meet the requirements;

~~(2) For SIRs that offer a significant opportunity for subcontracting, the CO should include proposed small business, small disadvantaged business and women-owned business subcontracting participation in the subcontracting plan as an evaluation factor.~~

~~(3) Including small business, small disadvantaged business and women-owned subcontracting goals in SIRs and contracts based on contract dollars versus planned subcontracting dollars.~~

~~(4) Consulting the local AAP-20 staff.~~

~~g. The requirements of this section do not apply to bundled contracts that are awarded in accordance with OMB Circular A-76 if a cost comparison has been performed under A-76 procedures.~~

(e) h. The requirements of this section do The determination that the anticipated benefits of the proposed bundled contract or order justify its use; and

(f) Alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives.

(10) All determinations that bundling is necessary and justified, with exception to paragraph (7) of this subsection, require the final approval of the FAE. Contracting officers shall submit the justification, which shall include the required information listed in (a) through (f) of paragraph (9) of this subsection, to the FAE. The FAE shall approve the bundling only if the FAE makes the independent determination that the bundling satisfies the requirements of this subsection.

(11) Upon FAE approval, the service team shall inform the Administrator of the contract

bundling and provide to the Administrator the justification described in paragraph (10) of this subsection.

(12) Bundling does not apply to ~~contracts to~~ a contract that will be awarded and performed entirely outside of the United States.

~~i. See Appendix A—Small Business Bundling Decision Flowchart attached to AMS guidance T3.6.1—Small Business Program, fore. For a guide to aid in the determination of the whether the use of consolidation and bundling requirements is proper, see the Decision Flowchart – Contract Consolidation and Bundling located in Procurement Tools and Resources.~~

7 Mentor-Protégé Revised 7/2021

a. Definitions.

(1) SMALL DISADVANTAGED BUSINESSES (SDB), as used in the Mentor-Protégé Program, means small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by the Acquisition Management System (AMS).

(2) HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) means institutions determined by the U.S. Secretary of Education to meet the requirements of 34 CFR 608.2 and listed therein.

(3) MINORITY EDUCATIONAL INSTITUTIONS (MI) means institutions verified by the U.S. Secretary of Education to meet the criteria set forth in 34 CFR 637.4. MIs include Hispanic-serving institutions as defined by 20 USC 1059c (b)(1).

(4) ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS (EDWOSB) has the same definition as “Economically Women-Owned Small Business concern” in Appendix C of AMS Policy

(5) WOMEN-OWNED SMALL BUSINESS (WOSB) has the same definition as “Women-owned small business concern eligible under the women-owned small business program” in Appendix C of AMS Policy.

(6) SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS (SDVOSB) is a small business concern that is 51% owned and controlled by a service-disabled veteran(s).

(7) HIGH-TECH, as used herein means research and/or development efforts that are within or advances the state-of-the-art in technology discipline and are performed primarily by professional engineering, scientists, and highly skilled and trained technicians or specialists.

(8) SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS- (SEDB) is a

small business concern that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and that has its management and daily business controlled by one or more such individuals.

(9) SMALL BUSINESS (SB) is a business, including its affiliates, that is independently owned and operated and not dominant in producing the products or performing the services being purchased, and one that qualifies as a small business under the Federal Government's criteria and North American Industry Classification System (NAICS) Code size standards.

b. Purpose.

The FAA Mentor-Protégé Program is designed to motivate and encourage firms to assist Small Businesses (SB), preferably Socially and Economically Disadvantaged Businesses (SEDB), Small Disadvantaged Businesses (SDB), Service-Disabled Veteran-Owned Small Business (SDVOSB), Historically Black Colleges and Universities (HBCU), and Minority Institutions (MI), Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) and Women-Owned Small Businesses (WOSB), enhancing their capabilities to perform FAA prime contracts and subcontracts, foster long-term business relationships between these entities and Mentor Firms, and increase the overall number of these entities that receive FAA prime contract and subcontract awards. The "Mentor-Protégé Program Guide" may be obtained from the Small Business Program (AAP-20) staff.

c. Incentives for Mentor Participation.

(1) Mentors may receive additional evaluation points (for Mentor-Protégé Program participation) toward the award of contracts during the evaluation of competitive offers.

(2) Mentors may receive credit toward attaining subcontracting goals contained in their FAA subcontracting plan(s) for Mentor-Protégé participation.

(3) Costs incurred by a mentor to provide developmental assistance (i.e., technical or managerial) described in Section 1.12 are allowable as indirect costs (appropriate documentation must be provided) unless the contract contains a line item specifically for the Mentor-Protégé Program. A ceiling on allowable developmental costs must be established at time of contract award.

(4) Procurements may be set-aside exclusively for competition among firms that are participants in the FAA Mentor-Protégé Program.

d. Review and Approval on Mentor-Protégé Application and Agreement.

(1) The Mentor-Protégé application and agreement is reviewed by AAP-20. The review should be completed no later than 30 days after receipt. AAP-20 should provide a copy of the submitted information to the cognizant FAA service team and Contracting Officer for

a parallel review and concurrence.

(2) Upon approval of the agreement, the mentor may implement the developmental assistance program.

(3) An approved agreement must be incorporated into the mentor or protégé firm's award (for example: a contract, blanket purchase agreement, purchase order, memorandum of agreement, memorandum of understanding, etc.). It should be added to the subcontracting plan in contracts which contain such a plan.

(4) If the application is disapproved, then the mentor may provide additional information for reconsideration. The review of any supplemental material should be completed within 30 days after receipt by AAP-20. Upon finding deficiencies that FAA considers correctable, AAP-20 should notify the mentor and request information to be provided within 30 days that may correct the deficiencies.

e. Additional Mentor-Protégé Program guidance is located on the AAP-20 website.

8 Joint Ventures Revised 9/2021

a. *Small Business Exception to Affiliation.* A joint venture of two or more business concerns may submit an offer as a small business without regard to affiliation provided that each concern is small under the size standard corresponding to the NAICS code assigned to the contract, provided:

(1) The procurement qualifies as a “bundled” requirement; or

(2) The procurement does not qualify as a “bundled” requirement, and:

(a) For a procurement having a receipts based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

(b) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds \$10 million.

b. *Mentor-Protégé Exception to Affiliation.* A joint venture between a protégé firm and its approved mentor will be deemed small provided the protégé qualifies as small for the size standard corresponding to the NAICS code assigned to the procurement. FAA approved Mentor-Protégé Program joint ventures are acceptable and/or Small Business Administration approved Mentor-Protégé Program joint ventures are acceptable.

c. *Subcontracting Limitations.* The subcontracting limitations specified in AMS Clauses 3.6.1-7, Limitations on Subcontracting and 3.6.1-12 Notice of Service-Disabled Veteran Owned Small Business Set-Aside, are applicable to Small Business Joint Ventures. A joint venture awarded a

contract as a prime contractor must perform work according to the conditions and percentages detailed in AMS Clause 3.6.1-7 or 3.6.1-12 as applicable.

d. *Socially and Economically Disadvantaged Businesses (SEDB(8(a)) Exception to Affiliation.*

(1) If approved by the Small Business Administration (SBA), 8(a) participants may enter into joint venture agreement with one or more small business concerns, whether they be 8(a) participants or not, for the purpose of performing a specific 8(a) contract.

(2) A joint venture of at least one 8(a) concern and one or more other business concerns may submit an offer as a small business for a competitive 8(a) procurement as long as each are considered small under the size standard corresponding to the NAICS code assigned to the SIR, provided:

(a) The size of at least one 8(a) Participant to the joint venture is less than one half the size standard corresponding to the NAICS code assigned to the contract; and

(b) For a procurement:

(i) Having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the NAICS code assigned to the contract;

or

(ii) Having an employee-based size standard, the procurement exceeds \$10 million.

(3) For single source and competitive 8(a) procurements that do not exceed the dollar levels identified above, an 8(a) Participant entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the 8(a) contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAICS code assigned to the 8(a) SIR or contract.

(e) *Service-Disabled Veteran Owned Small Businesses (SDVOSB) Exception to Affiliation.*

(1) An SDVOSB may enter into a joint venture agreement with one or more other small business concerns for the purpose of performing an SDVOSB contract.

(2) A joint venture of at least one SDVOSB and one or more other business concerns may enter submit an offer as a small business for a competitive SDVOSB procurement, so long as each concern is small under the size standard corresponding to the NAICS code assigned to the SIR, provided:

(a) For a procurement having a revenue-based size standard, the procurement

exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

(b) For a procurement having an employee-based size standard, the procurement exceeds \$10 million.

- (3) For noncompetitive and competitive SDVOSB procurement that does not exceed the dollar level identified above, an SDVOSB entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the SDVOSB contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAICS code assigned to the SDVOSB SIR or contract.

9 Tiered Evaluations 1/2021

Refer to AMS guidance on tiered evaluations at T3.2.2.3B.7 for more information.

B Clauses Revised 10/2006

[view contract clauses](#)

C Procurement Forms Revised 9/2021

Document Name

D Procurement Samples Revised 9/2021

Document Name
Master Subcontracting Plan

E Procurement Templates Added 9/2021

Document Name
Small Business Set-Aside Determination and Coordination

F Procurement Tools and Resources ~~Added 9/2021~~ Revised 10/2021

Document Name

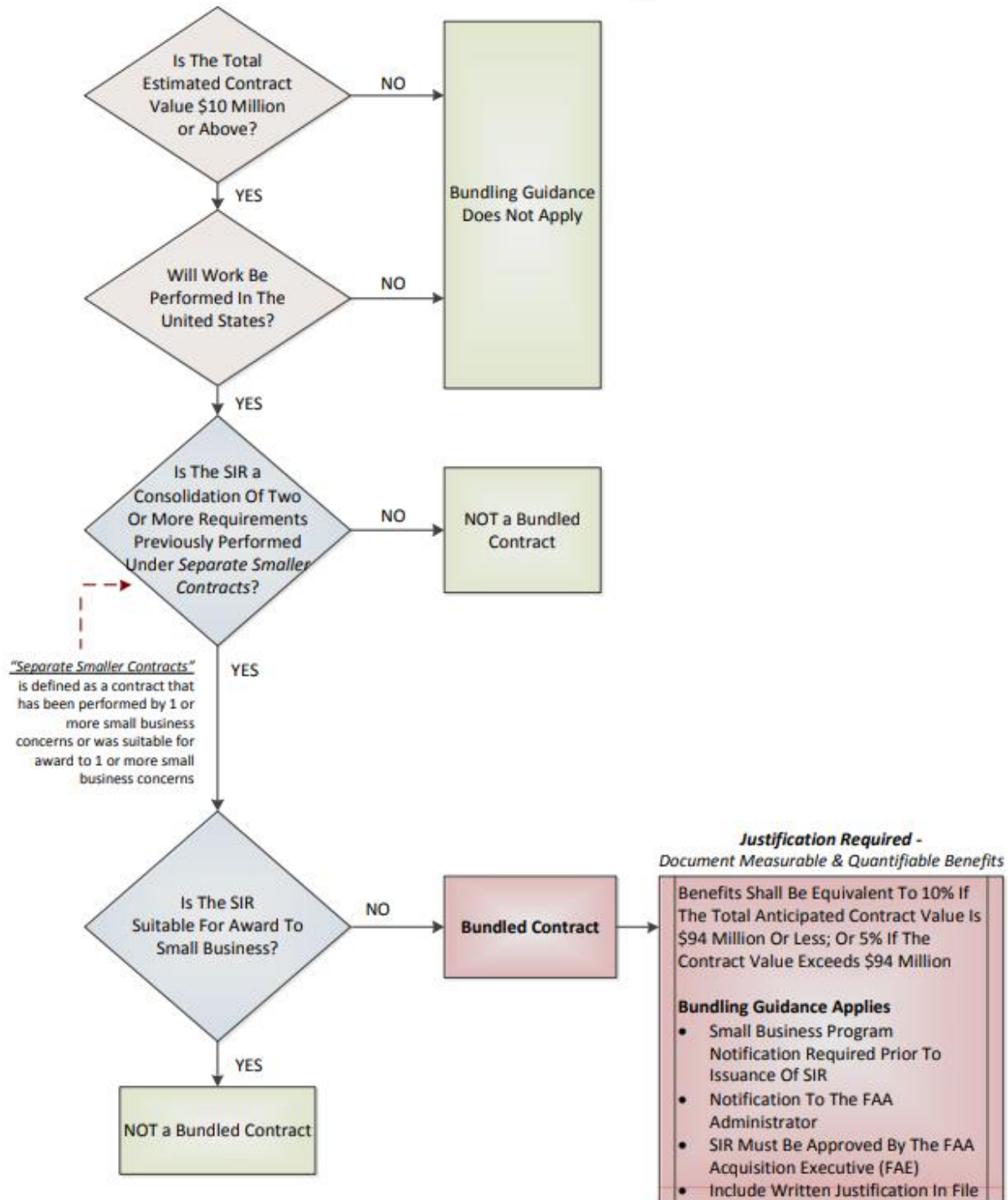
Small Business Set-Aside Determination and Coordination Process Flowchart
Decision Flowchart – Contract Consolidation and Bundling

G Appendix Revised ~~9/2021~~ 10/2021

~~**A—Small Business Bundling Decision Flowchart**~~ Revised 9/2021

DECISION FLOWCHART - BUNDLING

AMS Guidance T3.6.1 (7)



Revised 7/2020